रजिस्ट्री सं. डी. एल. (एन) 04/0007/2003–05 REGD. No. D. L. (N) 04/0007/2003—05

भारत का राजपत्र
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सं. 39] नई दिल्ली, सितम्बर 30—अक्तूबर 6, 2018, शनिवार/आश्विन 8—आश्विन 14, 1940
No. 39] NEW DELHI, SEPTEMBER 30—OCTOBER 6, 2018, SATURDAY/ASVINA 8— ASVINA 14, 1940

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 4, अक्तूबर, 2018

का.आ. 1434.—राष्ट्रीय कृषि और ग्रामीण विकास बैंक अधिनियम, 1981 (1981 का 61) की धारा 6 की उप-धारा (1) के खंड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक के परामर्श से, एतद्वारा, श्री महेश कुमार जैन, उप-गवर्नर, भारतीय रिजर्व बैंक को अधिसूचना की तारीख से तथा अगले आदेशों तक, जो भी पहले हो, श्री बी. पी. कानूनगो के स्थान पर राष्ट्रीय कृषि और ग्रामीण विकास बैंक (नाबार्ड) के निदेशक मण्डल में अंशकालिक निदेशक नामित करती है।

[फा. सं. 7/11/2018-एसी]

ए. के. दास, अवर सचिव

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the 4th October, 2018

S.O. 1434.—In exercise of the powers conferred by clause (c) of sub-section (1) of Section 6 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981), the Central Government, in consultation with the Reserve Bank of India, hereby nominates Shri Mahesh Kumar Jain, Deputy Governor, Reserve Bank of India as part-time Director on the Board of Directors of National Bank for Agriculture and Rural Development (NABARD) from the date of notification and until further orders whichever is earlier *vice* Shri B.P.Kanungo.

[F.No.7/11/2018-AC]
A. K. DAS, Under Secy.

कार्मिक, लोक शिकायत और पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 19 सितम्बर, 2018

का.आ. 1435.—केन्द्रीय सरकार, दंड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, पुणे, महाराष्ट्र स्थित माननीय सेशन न्यायालय में दिल्ली विशेष पुलिस स्थापन (के.अ.ब्यू.) द्वारा संस्थित केन्द्रीय अन्वेषण ब्यूरो मामला संख्या आरसी 4 (एस)/2014-मुम्बई (डॉ. नरेन्द्र दाभोलकर हत्या मामला) या उक्त मामले से उद्भूत किसी अन्य विषय के अभियोजन को संचालित करने के लिए श्री प्रकाश शांताराम सूर्यवंशी, अधिवक्ता को नियुक्ति की तारीख से तीन वर्ष की अवधि के लिए या मामले के निपटाए जाने तक के लिए, जो भी पहले हो, विशेष लोक अभियोजन के रूप में नियुक्त करती है।

[फा. सं. 225/28/2018-एवीडी-II]

अश्वनी दत्तात्रय ठाकरे, उप सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 19th September, 2018

S.O. 1435.—In exercise of the powers conferred by sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints Shri Prakash Shantaram Suryavanshi, advocate as Special Public Prosecutor for conducting prosecution of Central Bureau Investigation case number RC 4(S)/2014-Mumbai (Dr. Narendra Dabholkar Murder Case) instituted by the Delhi Special Police Establishment (C.B.I.) in the Hon'ble Sessions Court at Pune, Maharashtara or any other matter arising out of the said case for a period of three years from the date of the appointment or disposal of the case, whichever is earlier.

[F. No. 225/28/2018-AVD-II]
ASHWINI DATTATRAYA THAKRE, Dy. Secy.

नई दिल्ली, 19 सितम्बर, 2018

का.आ. 1436.—केन्द्रीय सरकार, दंड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री निखिल गोयल, अधिवक्ता को सीबीआई मामला संख्या आरसी 08(एस)/2017/सीबीआई/एससी.1/नई दिल्ली और आरसी 09(एस)/2017/सीबीआई/एससी.1/नई दिल्ली, जिसे दिल्ली विशेष पुलिस स्थापन (सीबीआई) द्वारा माननीय उच्च न्यायालय, हिमाचल प्रदेश, शिमला में संस्थित किया गया है और/या उससे सम्बन्धित और अनुषंगिक अन्य मामलों में नियुक्ति की तारीख से तीन वर्ष के लिए या मामले के निपटान तक, इनमें से जो भी पूर्वतर हो, में उपस्थित होने के लिए विशेष लोक अभियोजन नियुक्त करती है।

[फा. सं. 225/32/2017-एवीडी-II]

अश्वनी दत्तात्रय ठाकरे, उप सचिव

New Delhi, the 19th September, 2018

S.O. 1436 .—In exercise of the powers conferred by bub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints Shri Nikhil Goel, Advocate as Special Public Prosecutor to appear in CBI cases Number RC 08(S)/2017/CBI/SC.1/New Delhi and RC 09(S)/2017/CBI/SC.1/New Delhi instituted by the Delhi Special Police Establishment (C.B.I.) in the Hon'ble High Court of Himachal Pradesh at Shimla and/or other matters connected therewith and incidental thereto for a period of three years from the date of appointment or disposal of the case, whichever is earlier.

[F. No. 225/32/2017-AVD-II]

ASHWINI DATTATRAYA THAKRE, Dy. Secy.

विदेश मंत्रालय

(सी.पी.वी. प्रभाग)

नई दिल्ली, 18 सितम्बर, 2018

का.आ. 1437.—राजनयिक और कोंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के दूतावास, बेइजिंग में श्री पराग सिंघल, सहायक अनुभाग अधिकारी को दिनांक 18 सितम्बर, 2018 से सहायक कोंसुलर अधिकारी के तौर पर कोंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी. 4330/01/2016]

देबाशीस सिन्हा, अनुभाग अधिकारी (कोंस-I)

MINISTRY OF EXTERNAL AFFAIRS

(CPV DIVISION)

New Delhi, the 18th September, 2018

S. O. 1437.—Statutory Order: In pursuance of clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Parag Singhal, Assistant Section Officer, as Assistant Consular Officer in the Embassy of India, Beijing to perform Consular services with effect from 18 September, 2018.

[No. T. 4330/01/2016]

DEBASHIS SINHA, Section Officer (Cons-I)

आवासन और शहरी कार्य मंत्रालय

नई दिल्ली, 20 अगस्त, 2018

का.आ. 1438.— केन्द्रीय सरकार एतदद्वारा आवासन और शहरी कार्य मंत्रालय के प्रशासनिक नियंत्रणाधीन दिल्ली विकास प्राधिकरण तथा केन्द्रीय लोक निर्माण विभाग के निम्नलिखित कार्यालयों, जिसके 80% से अधिक अधिकारियों और कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथा संशोधित 1987) के नियम 10 के उपनियम (4) के अंतर्गत अधिसूचित करती है : -

1. मुख्य अभियंता (डिजाइन) कार्यालय, विकास मीनार, दिल्ली विकास प्राधिकरण, दिल्ली–110002
2. अधीक्षण अभियंता, इंदौर केन्द्रीय परिमंडल, केन्द्रीय लोक निर्माण विभाग, सीजीओ परिसर, प्रथम तल, "बी" विंग, इंदौर- 452001

[फा. सं. ई-11017/5/2013-हिन्दी]

सुधीर कुमार तिवारी, आर्थिक सलाहकार

MINISTRY OF HOUSING AND URBAN AFFAIRS

New Delhi, the 20th August, 2018

S.O. 1438.—In pursuance of Sub-rule (4) of Rule 10 of Official Language (Use for official purpose of the Union) Rules, 1976, the Central Government hereby notifies the following offices of the Delhi Development Authority and Central Public Works Department, under Ministry of Housing & Urban Affairs, where more than 80% of officers/employees have attained working knowledge of Hindi :—

1. Office of Chief Engineer (Design), Vikas Minar, Delhi Development Authority, Delhi-110002
2. Superintending Engineer, Indore Central Circle, CPWD, CGO Complex, Ist Floor, B-Wing, Indore-452001

[F. No. E-11017/5/2013-Hindi]

SUDHIR KUMAR TEWARI, Economic Advisor

वाणिज्य एवं उद्योग मंत्रालय

(वाणिज्य विभाग)

नई दिल्ली, 26 सितम्बर, 2018

का आ. 1439.—केन्द्रीय सरकार, निर्यात (गुणवत्ता नियंत्रण एंव निरीक्षण) नियम, 1964 के नियम 12, के उपनियम (2) के साथ पठित, निर्यात (गुणवत्ता नियंत्रण एंव निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स सुपरिंटेंडेंस कंपनी ऑफ़ इंडिया प्राइवेट लिमिटेड, डोर नंबर 24-1-31, अयमान बिल्डिंग, थॉमसन स्ट्रीट, विशाखापट्टनम - 530001, को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए भारत के राजपत्र भाग-II, खंण्ड-3, उप खंण्ड(ii), में दिनांक 20 दिसम्बर, 1965 को प्रकाशित अधिसूचना सं. का.आ. 3975 दिनांक 20 दिसम्बर 1965 में दी गई अनुसूचियों में खनिज और अयस्क समूह-I शीर्ष के अंतर्गत, क्रम सं. 2 पर निर्दिष्ट लौह अयस्क के निरीक्षण करने के लिए विशाखापट्न पत्तन, में उक्त अयस्क के निर्यात से पूर्व निम्नलिखित शर्तों के अधीन एक अभिकरण के रूप में मान्यता देती है, अर्थात् :

(i) यह अभिकरण, खनिज और अयस्क समूह-I का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन विनिर्दिष्ट निरीक्षण करने के लिये निर्यात निरीक्षण परिषद् द्वारा नामित अधिकारियों को पर्याप्त सुविधाएं देगी;

(ii) यह अभिकरण, इस अधिसूचना में यथा विनिर्दिष्ट अपने कार्यो का निष्पादन करने के लिए, निदेशक (निरीक्षण और गुणवत्ता नियंत्रण) निर्यात निरीक्षण परिषद द्वारा समय-समय पर, लिखित रूप में, दिए गए ऐसे निर्देशों से आबद्ध होंगी ।

[फा. सं. के –16014/5/2018-निर्यात निरीक्षण]

संतोष कुमार सारंगी, संयुक्त सचिव

MINISTRY OF COMMERCE AND INDUSTRY

(Department Of Commerce)

New Delhi, the 26th September, 2018

S.O. 1439.—In exercise of the powers conferred by sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognises M/s. Superintendence Company of India Private Limited, Door No. 24-1-31, Ayman Building, Thomson Street, Visakhapatnam- 530001, as an agency for a period of three years from the date of publication of this notification, for the inspection of Iron Ore mentioned at serial number 2 under the heading Minerals and Ores- Group I, in the Schedule to the notification number S.O. 3975, dated the 20thDecember, 1965, published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 20thDecember, 1965, prior to export of the said Ore at Visakhapatnam Port, subject to the following conditions, namely: -

(i) the said agency shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to carry out the inspection specified under rule 4 of the Export of Minerals and Ores - Group I (Inspection) Rules, 1965;

(ii) the said agency shall, in performance of its function as specified in this notification shall be bound by such directions, as the Director (Inspection and Quality Control), Export Inspection Council, may give in writing from time to time.

[F. No. K-16014/5/2018-Export Inspection]

SANTOSH KUMAR SARANGI, Jt. Secy.

महिला एवं बाल विकास मंत्रालय

(हिन्दी अनुभाग)

नई दिल्ली, 24 सितम्बर, 2018

का.आ. 1440.—राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में केन्द्र सरकार, एतदद्वारा, महिला एवं बाल विकास मंत्रालय के अधीन निम्नलिखित कार्यालय को ऐसे कार्यालय के तौर पर अधिसूचित करती है जिसके 80 प्रतिशत से अधिक स्टाफ को हिन्दी का कार्यसाधक ज्ञान है:

'राष्ट्रीय महिला कोष',

(महिला एवं बाल विकास मंत्रालय)

बी-12, कुतुब इंस्टीट्यूशनल एरिया,

नई दिल्ली – 110016

[सं. 14013/1/2018-हिन्दी]

आस्था सक्सेना खटवानी, संयुक्त सचिव

MINISTRY OF WOMEN AND CHILD DEVELOPMENT

(HINDI SECTION)

New Delhi, the 24th September, 2018

S.O. 1440.—In pursuance of Sub Rule (4) of Rule 10 of the Official Languages (use for Official Purposes of the Union) Rules, 1976, the Central Government, hereby, notifies the following office under the Ministry of Women and Child Development as office whose more than 80% members of the staff have acquired working knowledge of Hindi :

'Rashtriya Mahila Kosh'

(Ministry of Women and Child Development)

B-12 Qutub Institutional Area,

New Delhi – 110016

[No. 14013/1/2018-Hindi]

AASTHA SAXENA KHATWANI, Jt. Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 3 अक्तूबर, 2018

का. आ. 1441.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइंस (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 उप धारा (1) के अधीन जारी की गई, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना जिसका प्रकाशन भारत के राजपत्र संख्या 10, दिनांक 17.03.2018 का.आ संख्या 438, दिनांक 26.02.2018, भाग II, खण्ड 3, उप-खण्ड (ii) में किया गया है। इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट पंजाब राज्य की तहसील नवांशहर, जिला शहीद भगत सिंह नगर और तहसील गढ़शंकर, जिला होशियारपुर की भूमि में, पंजाब राज्य के गाँव : झुगियां, जिला शहीद भगत सिंह नगर से हिमाचल प्रदेश के गाँव : पेखुबेला, जिला उना तक पैट्रोलियम उत्पादों के परिवहन के लिए इंडियन ऑइल कार्पोरेशन लिमिटेड द्वारा पीएजेपीएल– उना ब्रांच पाइपलाइन परियोजना के सम्बंध में पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के लिए अपने आशय की घोषणा की थी।

और उक्त राजपत्र अधिसूचनाओं की प्रतियाँ जनता को तारीख 30.05.2018 तक उपलब्ध करा दी गई थी।

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी ने केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है।

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है।

अत: अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के उपयोग का अधिकार अर्जित किया जाए।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाय सभी विल्लंगमों से मुक्त होकर इंडियन ऑयल कार्पोरेशन लिमिटेड में निहित होगा।

पेट्रोलियम और खनिज पाइपलाइन अधिनियम 1962 की धारा 10 के अधीन किसी भी क्षतिपूर्ति के लिए इंडियन ऑयल कार्पोरेशन लिमिटेड पूर्णतया उत्तरदायी होगी और पाइपलाइन से सम्बन्धित किसी भी मामलें पर केन्द्रीय सरकार के विरुद्ध कोई वाद - दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

राज्य : पंजाब

क्र. सं.	जिला	तहसील	गाँव का नाम	हदबस्त नं	खसरा सं.	क्षेत्रफल		
						हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5	6	7	8	9
1	एस. बी. एस. नगर	नवांशहर	दरीयापुर	278	34	00	00	22
2	एस. बी. एस. नगर	नवांशहर	राहों	223	190//20/2	00	03	00
					190//9/2	00	00	20
					190 //2/2	00	00	20
3	एस. बी. एस. नगर	नवांशहर	लंगरोया	137	313/2/9	00	00	72
					312/3/9	00	00	89
4	होशियारपुर	गढ़शंकर	सिंबली	159	70//8/1	00	10	52

					52//14	00	05	96
					52//7	00	01	61
					52//6	00	08	35
					52//5	00	09	85
					46//25	00	13	83
					46//16/1	00	02	90
5	होशियारपुर	गढ़शंकर	दल्लेवाल	482	39//24	00	01	00
6	होशियारपुर	गढ़शंकर	मानसोवाल	484	2699/7	00	08	51
7	होशियारपुर	गढ़शंकर	मजारी	475	14//19/1	00	04	54

[फा. सं. आर-11025(11)/1/2018-ओआर-I/ई-21789]

पवन कुमार, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 3rd October, 2018

S.O. 1441.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas, published in the Gazette No. 10, dated 17.03.2018, S.O. No. 438, dated 26.02.2018, Part-II section 3, sub-section (ii) issued under sub-section (1) of section 3 of the Petroleum and Minerals pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (here in after referred to as the said Act) the Central Government declared its intention to acquire the right of user in the land situated in Tehsil – Nawanshahr of District Shahid Bhagat Singh Nagar and Tehsil – Garhshankar of District Hoshiarpur in Punjab State, specified in the Schedule appended to that notification for the purpose of laying pipeline for the transportation of petroleum product from village Jhungian in the State of Punjab, District Shahid Bhagat Singh Nagar to village Pekhubela in the State of Himachal Pradesh, District Una by the Indian Oil Corporation Limited for implementing the "PAJPL - Una Branch pipeline project".

And whereas the copies of the said Gazette notification were made available to the public on 30.05.2018.

And whereas the Competent Authority has under sub-section (1) of section 6 of the said Act, has submitted his report of Central Government.

And whereas, the Central Government after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire right of the user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user of the said land for laying the pipeline shall, instead of vesting in the Central Government, vests on the date of publication of the declaration, in Indian Oil Corporation Limited, free from all encumbrances.

Indian Oil Corporation Limited shall be exclusively liable for any compensation in terms of section 10 of the P & MP Act, 1962 and no suit, claim or legal proceeding would lie against the Central Government on any matter relating to pipeline.

SCHEDULE

State : Punjab

Sr. No.	Name of District	Name of Tehsil	Name of Village	Hadbast No.	Khasara No.	Area		
						Hectare	Are	Sq. mtr.
1	2	3	4	5	6	7	8	9
1	S.B.S. Nagar	Nawanshahr	Daryapur	278	34	00	00	22
2	S.B.S. Nagar	Nawanshahr	Rahon	223	190//20/2	00	03	00
					190//9/2	00	00	20
					190//2/2	00	00	20
3	S.B.S. Nagar	Nawanshahr	Langroya	137	313/2/9	00	00	72
					312/3/9	00	00	89
4	Hoshiarpur	Garhshankar	Simbli	159	70//8/1	00	10	52
					52//14	00	05	96
					52//7	00	01	61
					52//6	00	08	35
					52//5	00	09	85
					46//25	00	13	83
					46//16/1	00	02	90
5	Hoshiarpur	Garhshankar	Dallewal	482	39//24	00	01	00
6	Hoshiarpur	Garhshankar	Mansowal	484	2699/7	00	08	51
7	Hoshiarpur	Garhshankar	Majari	475	14//19/1	00	04	54

[F. No. R-11025(11)/1/2018-OR-I /E-21789]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 3 अक्तूबर, 2018

का. आ. 1442.—केन्द्रीय सरकार को ऐसा प्रतीत होता है कि लोकहित में यह आवश्यक है की गुजरात राज्य में सलाया से उत्तर प्रदेश में मथुरा तक पेट्रोलियम क्रूड के परिवहन के लिए "सलाया मथुरा पाइपलाइन के अंतर्गत डी–बोटलनेकींग परियोजना " के कार्यान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है की उक्त भूमि में जिसके भीतर उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची मे वर्णित है उपयोग के अधिकार का अर्जन किया जाए;

अत: अब केन्द्रीय सरकार पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत शक्तियों का प्रयोग करते हुए उक्त भूमि में उपयोग का अधिकार अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति जो उक्त अनुसूची मे वर्णित भूमि से हितबध्द है उस तारीख से जिसको भारत के राजपत्र में यथा, प्रकाशित इस अधिसूचना की प्रतियाँ जनसाधारण को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर उसमे उपयोग करने का अधिकार का अर्जन करने या भूमि के नीचे पाइपलाइन बिछाए जाने के संबंध में श्री भरत जे. अक्रूवाला, सक्षम प्राधिकारी (गुजरात) इंडियन ऑयल कॉर्पोरेशन लिमिटेड, पश्चिमी क्षेत्र पाइपलाइन्स प्रोजेक्ट्स, 3/22, गुजरात रिफाइनरी टाउनशिप,पो. ओ. जवाहरनगर वडोदरा, गुजरात पिन -391320 को लिखित रूप में आक्षेप भेज सकेगा ।

अनुसूची

राज्य	जिला	तहसील	गाँव	सर्वेक्षण संख्या खंड संख्या	उप खंड संख्या	क्षेत्रफल		
						हेकटर	एकड	वर्ग मीटर
1	2	3	4	5	6	7	8	9
गुजरात	मोरबी	टंकारा	आनंदपर	155/1		00	04	92
				155/2		00	04	92
				162/1		00	04	00
				130/1		00	04	38
				74		00	04	41
				48/1		00	05	79
				2/36/3		00	49	07
				2/17		00	08	04
				2/12		00	13	18
				45		00	19	37
				2/7		00	04	47
				2/18/1		00	09	00

[फा. सं. आर-11025(11)/8/2018-ओआर-I/ई-24459]

पवन कुमार, अवर सचिव

New Delhi, the 3rd October, 2018

S.O. 1442.—Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum crude a pipeline from Salaya in the State of Gujarat to Mathura in the State of Uttar Pradesh, (Under Salaya-Mathura Pipeline De-bottlenecking Project) should be laid by the Indian Oil Corporation Limited;

And, whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty one days from the date on which the copies of this notification issued under sub-section (1) of Section 3 of the said Act, as published in the Gazette of India,

are made available to the general public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land, to Shri BHARAT J. AKRUWALA, Competent Authority (Gujarat) Indian Oil Corporation Limited, Western Region Pipelines Projects 3/122, Gujarat Refinery Township, PO: Jawaharnagar, Vadodara (Gujarat). Pin-391320.

SCHEDULE

State	District	Taluka	Village	Survey / Block No.	Sub-Division No.	Additional Area		
						Hect.	Are	Sq.mtr.
1	2	3	4	5	6	7	8	9
Gujarat	Morbi	Tankara	Anandpar	155/1		00	04	92
				155/2		00	04	92
				162/1		00	04	00
				130/1		00	04	38
				74		00	04	41
				48/1		00	05	79
				2/36/3		00	49	07
				2/17		00	08	04
				2/12		00	13	18
				45		00	19	37
				2/7		00	04	47
				2/18/1		00	09	00

[F. No. R-11025(11)/8/2018-OR-I/E-24459]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 3 अक्तूबर, 2018

का.आ. 1443.—केन्द्रीय सरकार ने पैट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962(1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी भारत सरकार के पैट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का. आ. सं. 661 दिनांक 17.04.2018 के द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट गुजरात राज्य की तहसील : पडधरी और राजकोट, जिला : राजकोट की भूमि में "सलाया-मथुरा पाइपलाइन के अन्तर्गत डी-बॉटलनेकिंग परीयोजना " के कार्यान्वयन के लिए इंडियन ऑइल कोर्पोरेशन लिमिटेड द्वारा गुजरात राज्य में सलाया से उत्तर प्रदेश राज्य में मथुरा तक पैट्रोलियम क्रूड के परिवहन के लिए पाइपलाइन बिछाने हेतु उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी ;

और, उक्त अधिसूचना की प्रतियां जनता को, कलेक्टर राजकोट, मामलतदार पडधरी और राजकोट एवं संबधित पट्वारी कार्यालय को दिनांक 24.05.2018 के पत्र द्वारा उपलब्ध करवा दी गई है।

अत: अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का करते हुए यह घोषणा करती है की इस अधिसूचना से उपाबद्ध अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के उपयोग का अधिकार अर्जित किया जाता है ;

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा की प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने की बजाए सभी विल्लंगमों से मुक्त होकर इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

राज्य	जिला	तालुका	गाँव	सर्वेक्षण संख्या/	उपखंड	क्षेत्रफल

				खंड संख्या	संख्या	हेक्टर	एकड़	वर्ग मीटर
1	2	3	4	5	6	7	8	9
गुजरात	राजकोट	पड्धरी	हृदमतिया	116		00	12	16
		पड्धरी	मोटी चनोल	50/1/2		00	09	54
				48/1/1		00	02	25
		पड्धरी	वनपरि	151/33		00	13	45
				151/17/2		00	18	00
				29/2/2		00	00	52
				38/1		00	04	00
				38/2		00	04	00
		पड्धरी	मोटा रामपर	183/2		00	00	56
				183/3		00	01	87
				158/5		00	00	29
				158/4		00	00	59
				158/3		00	00	34
				158/2		00	00	80
				158/1		00	00	63
				157/1		00	02	51
				157/2		00	02	64
				151/2		00	00	64
				152		00	00	52
				149		00	00	21
		पडधरी	डूंगरका	85/1		00	02	44
				85/2		00	01	46
				78/4		00	02	37
				78/2/2		00	04	37
				86/2		00	00	67
		पड्धरी	बाघी	18/2		00	04	32
				18/3		00	03	68
				94		00	01	05
				29/1		00	34	84

			29/2	00	02	60
			90	00	05	40
			58/1	00	16	08
			91	00	04	50
	पड्धरी	पड्धरी	442	00	00	36
			74/1	00	01	26
			161	00	04	66
			159/1	00	09	20
			155/1	00	09	24
			129	00	30	50
			57/1	00	04	78
			127	00	17	65
			128	00	19	80
	राजकोट	गौरीदड़	512/53	00	05	54

[फा. सं. आर-11025(11)/8/2018/ओ-आर-I/ई-24459]

पवन कुमार, अवर सचिव

New Delhi, the 3rd October, 2018

S.O. 1443.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 661 dated 17th April, 2018 issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act 1962 (50 of 1962) the Central Government declared its intention to acquire the right of user in the land in Taluka Paddhari and Rajkot of District Rajkot, in Gujarat State, specified in the Schedule appended to that notification for the purpose of laying pipeline for the transportation of Petroleum crude from Salaya in the State of Gujarat to Mathura in the State of Uttar Pradesh, (Under Salaya-Mathura Pipeline De-bottlenecking Project) of Indian Oil Corporation Limited.

And whereas, copies of the said notification were made available to the public vide letters of intimation to Collector Rajkot, Mamlatdar Paddhari & Rajkot & respective Talati offices on 24.05.2018.

And whereas, the Competent Authority has under sub-section (1) of section 6 of the said Act, submitted his report to the Central Government.

And further, whereas the Central Government has after considering the said report, decided to acquire the right of user in the land specified in the Schedule appended to this Notification.

Now, therefore in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the said land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline.

And further, in exercise of the powers conferred by sub-section (4) of section 6, Central Government directs the right of user in the said land shall instead of vesting in the Central Government, vest on date of publication of this declaration, in the Indian Oil Corporation Limited free from all encumbrances.

SCHEDULE

State	District	Taluka	Village	Survey / Block No.	Sub-Division No.	Area		
						Hect.	Area	Sq.mtr.

1	2	3	4	5	6	7	8	9
Gujarat	Rajkot	Paddhari	Hadmatiya	116		00	12	16
		Paddhari	Moti Chanol	50/1/2		00	09	54
				48/1/1		00	02	25
		Paddhari	Vanpari	151/33		00	13	45
				151/17/2		00	18	00
				29/2/2		00	00	52
				38/1		00	04	00
				38/2		00	04	00
		Paddhari	Mota Rampar	183/2		00	00	56
				183/3		00	01	87
				158/5		00	00	29
				158/4		00	00	59
				158/3		00	00	34
				158/2		00	00	80
				158/1		00	00	63
				157/1		00	02	51
				157/2		00	02	64
				151/2		00	00	64
				152		00	00	52
				149		00	00	21
		Paddhari	Dungarka	85/1		00	02	44
				85/2		00	01	46
				78/4		00	02	37
				78/2/2		00	04	37
				86/2		00	00	67
		Paddhari	Baghi	18/2		00	04	32
				18/3		00	03	68
				94		00	01	05
				29/1		00	34	84
				29/2		00	02	60
				90		00	05	40
				58/1		00	16	08
				91		00	04	50
		Paddhari	Paddhari	442		00	00	36
				74/1		00	01	26

			161	00	04	66
			159/1	00	09	20
			155/1	00	09	24
			129	00	30	50
			57/1	00	04	78
			127	00	17	65
			128	00	19	80
	Rajkot	Gauridad	512/53	00	05	54

[F. No. R-11025(11)/8/2018-OR-I/E-24459]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 3 अक्तूबर, 2018

का.आ. 1444.—केन्द्रीय सरकार को लोकहित में यह आव यक प्रतीत होता है कि तमिलनाडू राज्य के सेलम को केरल राज्य में भारत पैट्रोलियम कॉर्पोरेशन लिमिटेड़ की कोच्चि रिफाइनरी से तरलीकृत पेट्रोलियम गैस के परिवहन के लिए, एक पाइपलाईन कोच्चि सेलम पाइपलाईन प्राइवेट लिमिटेड़ द्वारा बिछाई जानी चाहिए;

और केन्द्रीय सरकार को ऐसी पाइपलाईन बिछाने के प्रयोजन के लिए यह आव यक प्रतीत होता है कि ऐसी भूमि में, जो इससे उपाबद्ध अनुसूची में वर्णित है, जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए ;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50), की धारा 3 की उपधारा (1) द्वारा प्रदत्त भाक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आ ाय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाए जाने के लिये उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्री बशीरकुंजू ए, सक्षम प्राधिकारी, कोच्चि सेलम पाइप लाइन प्राइवेट लिमिटेड, करुण एंक्लेव, द्वितीय तल, डोर न. बी– 2, एस एन जंक्शन, रिफाईनरी रोड, यूनियन बैंक ऑफ इंडिया के सामने, त्रिपुनिथुरा, जिला ऐरनाकुलम, केरल – 682301 को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

राज्य: केरल **जिला: ऐरनाकुलम** **तालुक: आलुवा**

नाम ग्राम	सर्वे नम्बर	क्षेत्रफल		
		हेक्टेयर	एरिया	प्रति वर्गमीटर
तुरवूर (खण्ड सं 13)	27/4	0	04	65
	27/5	0	00	80
	27/6	0	03	62
	27/7	0	04	15
	27/15	0	03	25
	27/16	0	04	80
	30/1	0	02	60
तुरवूर (खण्ड सं. 13)	30/3	0	08	95
	30/4	0	02	65
	30/5	0	09	75
	30/6	0	06	75
	30/7	0	09	70

	30/8	0	04	95
	30/10	0	03	57
	36/1	0	17	45
	36/2	0	00	30
	36/3	0	06	15
	36/4	0	01	55
	37/1	0	08	10
	37/2	0	06	45
	37/3	0	05	28
	39/1	0	05	22
	39/2	0	04	55
	39/4	0	00	55
	39/11	0	02	95
	39/13	0	00	52
	40/13	0	00	30
	49/10	0	04	58
	49/11	0	02	30
	49/12	0	03	80
	49/13	0	05	93
	49/14	0	01	20
	49/15	0	05	90
	49/16	0	03	10
	50/4	0	09	42
	50/7	0	12	67
	90/2	0	04	05
मूक्कन्नूर (खण्ड सं. 15)	258/1	0	10	00
	258/6	0	03	05
	259/2	0	16	40
	259/8	0	06	55
	259/9	0	03	25
	259/11	0	04	00
	260/2	0	02	50
	260/3	0	02	20
मूक्कन्नूर (खण्ड सं. 15)	260/4	0	02	15
	260/5	0	01	84
	260/6	0	02	46
	260/7	0	00	97
	260/11	0	02	28

	260 / 12	0	00	78
	260 / 13	0	03	62
	260 / 14	0	04	95
	260 / 15	0	02	75
	260 / 17	0	01	45
	260 / 18	0	01	54
	260 / 21	0	03	65
	294 / 6	0	08	22
	294 / 7	0	00	90
	295 / 1	0	02	38
	295 / 3	0	03	95
	295 / 4	0	01	10
	295 / 6	0	00	15
	295 / 7	0	03	17
	295 / 11	0	04	18
	295 / 13	0	02	60
	296 / 1	0	03	00
	296 / 2	0	01	45
	296 / 3	0	01	30
	296 / 5	0	02	65
	296 / 7	0	02	98
	296 / 8	0	01	90
	296 / 9	0	03	78
	297 / 1	0	02	50
	297 / 2	0	01	74
	297 / 3	0	01	93
	297 / 4	0	03	12
	297 / 5	0	01	53
	297 / 6	0	01	47
	298 / 1	0	09	10
	298 / 3	0	00	12
	298 / 4	0	01	48
	298 / 6	0	00	60
मूक्कन्नूर (खण्ड सं. 15)	298 / 7	0	01	75
	298 / 8	0	01	70
	298 / 9	0	03	48
	298 / 11	0	03	20
	298 / 12	0	00	70

	298/13	0	02	40

[फा. सं. आर-12031/196/2017-ओआर – I/ई-19746]

पवन कुमार, अवर सचिव

New Delhi, the 3rd October, 2018

S.O. 1444.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of Liquefied Petroleum Gas from Kochi Refinery of Bharat Petroleum Corporation Limited in the State of Kerala to Salem in the State of Tamil Nadu and that the a pipeline should be laid by M/s. Kochi – Salem pipeline Private Ltd;

And whereas , it appears to the Central Government that for the purpose of laying such pipelines, it is necessary to acquire the right of user in the lands under which such pipelines are proposed to be laid described in the schedule annexed to this notification;

Now therefore in the exercise of powers conferred by sub section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (Central Act 50 of 1962) the Central Government hereby declares its intention to acquire the right of user therein.

Any person, interested in land described in the said schedule may, within 21 days from the date on which the copies of this notification, as published in the Gazette of India are made available to the general public, object in writing to the acquisition of the right of user therein or laying or the pipeline under the land to Sri. Basheerkunju. A, Competent Authority, Kochi-Salem Pipeline Private Ltd, Karun Enclave 2nd floor, Door No. B2, S.N. Junction, Refinery Road, Opp: Union Bank of India, Tripunithura, Pin – 682 301.

SCHEDULE

STATE : KERALA DISTRICT : ERNAKULAM TALUK : ALUVA

VILLAGE	SURVEY NUMBERS	AREA (APPROXIMATE)		
		HECTARES	ARES	SQ:METERS
THURAVOOR BLOCK. No. 13	27/4	0	04	65
	27/5	0	00	80
	27/6	0	03	62
	27/7	0	04	15
	27/15	0	03	25
	27/16	0	04	80
	30/1	0	02	60
	30/3	0	08	95
	30/4	0	02	65
	30/5	0	09	75
	30/6	0	06	75
	30/7	0	09	70
THURAVOOR BLOCK. No. 13	30/8	0	04	95
	30/10	0	03	57
	36/1	0	17	45
	36/2	0	00	30
	36/3	0	06	15

	36/4	0	01	55
	37/1	0	08	10
	37/2	0	06	45
	37/3	0	05	28
	39/1	0	05	22
	39/2	0	04	55
	39/4	0	00	55
	39/11	0	02	95
	39/13	0	00	52
	40/13	0	00	30
	49/10	0	04	58
	49/11	0	02	30
	49/12	0	03	80
	49/13	0	05	93
	49/14	0	01	20
	49/15	0	05	90
	49/16	0	03	10
	50/4	0	09	42
	50/7	0	12	67
	90/2	0	04	05
MOOKKANNOOR BLOCK. No. 15	258/1	0	10	00
	258/6	0	03	05
	259/2	0	16	40
	259/8	0	06	55
	259/9	0	03	25
	259/11	0	04	00
	260/2	0	02	50
	260/3	0	02	20
	260/4	0	02	15
	260/5	0	01	84
MOOKKANNOOR BLOCK. No. 15	260/6	0	02	46
	260/7	0	00	97
	260/11	0	02	28
	260/12	0	00	78
	260/13	0	03	62

	260/14	0	04	95
	260/15	0	02	75
	260/17	0	01	45
	260/18	0	01	54
	260/21	0	03	65
	294/6	0	08	22
	294/7	0	00	90
	295/1	0	02	38
	295/3	0	03	95
	295/4	0	01	10
	295/6	0	00	15
	295/7	0	03	17
	295/11	0	04	18
	295/13	0	02	60
	296/1	0	03	00
	296/2	0	01	45
	296/3	0	01	30
	296/5	0	02	65
	296/7	0	02	98
	296/8	0	01	90
	296/9	0	03	78
	297/1	0	02	50
	297/2	0	01	74
	297/3	0	01	93
	297/4	0	03	12
	297/5	0	01	53
	297/6	0	01	47
	298/1	0	09	10
	298/3	0	00	12
	298/4	0	01	48
MOOKKANNOOR BLOCK. No. 15	298/6	0	00	60
	298/7	0	01	75
	298/8	0	01	70
	298/9	0	03	48
	298/11	0	03	20

	298/12	0	00	70
	298/13	0	02	40

[F. No. R-12031/196/2017-OR-I/E-19746]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 3 अक्तूबर, 2018

का. आ. 1445—केन्द्रीय सरकार को लोकहित में यह आव यक प्रतीत होता है कि तमिलनाडू राज्य के सेलम को केरल राज्य में भारत पैट्रोलियम कॉर्पोरेशन लिमिटेड़ की कोच्चि रिफाइनरी से तरलीकृत पेट्रोलियम गैस के परिवहन के लिए, एक पाइपलाइन कोच्चि सेलम पाइपलाइन प्राइवेट लिमिटेड़ द्वारा बिछाई जानी चाहिए;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आव यक प्रतीत होता है कि ऐसी भूमि में, जो इससे उपाबद्ध अनुसूची में वर्णित है, जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए ;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50), की धारा 3 की उपधारा (1) द्वारा प्रदत्त भाक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आ ाय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाए जाने के लिये उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्री बशीरकुंजू ए, सक्षम प्राधिकारी, कोच्चि सेलम पाइपलाइन प्राइवेट लिमिटेड, करुण एंक्लेव, द्वितीय तल, डोर न. बी– 2, एस एन जंक्शन, रिफाईनरी रोड, यूनियन बैंक ऑफ इंडिया के सामने, त्रिपुनिथुरा, जिला ऐरनाकुलम, केरल – 682301 को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

राज्य: केरल **जिला: ऐरनाकुलम** **तालुक: कुन्नाथुनाडू**

नाम ग्राम	सर्वे नम्बर	क्षेत्रफल		
		हेक्टेयर	एरिया	प्रति वर्गमीटर
किज़ाक्कम्बलम (खण्ड सं. 25)	39/3	0	02	07
	39/4	0	13	56
	39/5	0	07	43
	40/9	0	07	45
	40/11	0	10	21
	40/16	0	00	45
	40/17	0	09	69
	44/7	0	08	96
	44/10	0	05	93
	44/11	0	01	56
	44/13	0	02	53
किज़ाक्कम्बलम (खण्ड सं. 25)	44/14	0	02	91
	44/15	0	04	55
	44/16	0	10	41
	46/5	0	02	48
	46/6	0	03	55

	46/7	0	03	73
	46/8	0	08	02
	46/9	0	00	33
	46/10	0	03	50
	46/11	0	00	11
	46/17	0	01	05
	47/2	0	05	48
	58/11	0	02	73
	58/12	0	03	24
	58/13	0	02	11
	58/14	0	01	43
	58/15	0	03	66
	58/16	0	03	64
	59/1	0	01	85
	59/2	0	08	91
	59/3	0	02	91
	59/4	0	02	51
	60/1	0	03	62
	60/3	0	08	94
	61/10	0	04	39
	62/10	0	02	88
	62/11	0	02	38
	62/12	0	05	06
	62/14	0	03	41
	62/15	0	02	12
	62/16	0	03	47
	63/2	0	02	32
	63/3	0	02	08
	63/5	0	02	18
	63/6	0	02	47
	63/7	0	02	48
	63/8	0	05	23
	63/9	0	10	86
किज़ाक्कम्बलम (खण्ड सं. 25)	90/4	0	04	54
	90/6	0	04	48
	90/7	0	03	50
	90/10	0	04	21
	90/11	0	07	00

	91/11	0	04	87
	91/12	0	05	03
	91/13	0	06	35
	91/14	0	04	21
	91/15	0	02	18
	91/16	0	01	53
	91/17	0	02	51
	101/9	0	05	78
	101/10	0	04	68
	101/11	0	00	38
	101/12	0	00	24
मारमपिल्लि (खण्ड सं. 24)	49/1	0	00	32
	49/2	0	00	17
	54/7	0	00	22
	54/11	0	00	11
वाज़कुलम (खण्ड सं. 24)	61/9	0	02	13
	61/12	0	01	18
	61/18	0	02	71
	61/19	0	00	22
राज्य: केरल	**जिला: ऐरनाकुलम**		**तालुक: आलुवा**	
आलुवा ईस्ट (खण्ड सं. 35)	163/5	0	00	22
	207/6	0	10	02
	208/4	0	00	49
	208/12	0	03	15
	208/15	0	00	47
	213/6	0	01	87
	213/7	0	02	23
	213/8	0	03	03
	213/9	0	00	61
	213/10	0	00	82
	213/11	0	03	06
	213/12	0	06	51
	213/13	0	08	97
आलुवा ईस्ट (खण्ड सं. 35)	213/15	0	04	75
	218/5	0	00	08
	218/6	0	03	76
	218/7	0	00	63
	218/8	0	01	92

	218/9	0	04	24
	218/10	0	03	28
	218/11	0	00	95
	218/13	0	03	09
	218/16	0	03	59
	218/17	0	02	85
	218/18	0	03	20
कीज़माड़ (खण्ड सं. 32)	150/6	0	07	37
	153/8	0	00	22
	156/6	0	00	65
	279/13	0	01	52
	280/2	0	00	29
	282/8	0	00	20
	282/11	0	00	13
	282/13	0	00	37
	307/3	0	04	44
	307/5	0	03	06
वडक्कुम्बागम (खण्ड सं. 28)	192/6	0	00	97

[फा. सं. आर—12031/196/2017—ओआर—I/ई—19746]

पवन कुमार, अवर सचिव

New Delhi, the 3rd October, 2018

S.O. 1445.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of Liquefied Petroleum Gas from Kochi Refinery of Bharat Petroleum Corporation Limited in the State of Kerala to Salem in the State of Tamil Nadu and that the a pipeline should be laid by M/S Kochi – Salem pipeline Private Ltd;

And whereas , it appears to the Central Government that for the purpose of laying such pipelines, it is necessary to acquire the right of user in the lands under which such pipelines are proposed to be laid described in the schedule annexed to this notification;

Now therefore in the exercise of powers conferred by sub section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (Central Act 50 of 1962) the Central Government hereby declares its intention to acquire the right of user therein.

Any person, interested in land described in the said schedule may, within 21 days from the date on which the copies of this notification, as published in the Gazette of India are made available to the general public, object in writing to the acquisition of the right of user therein or laying or the pipeline under the land to Sri. Basheerkunju. A, Competent Authority, Kochi-Salem Pipeline Private Ltd, Karun Enclave 2nd floor, Door No. B2, S.N. Junction, Refinery Road, Opposite Union Bank of India, Tripunithura, Ernakulam Kerala Pin – 682 301.

SCHEDULE

STATE : KERALA DISTRICT : ERNAKULAM TALUK : KUNNATHUNADU

VILLAGE	SURVEY NUMBERS	AREA		
		HECTARES	ARES	SQ MTRS

KIZHAKKAMBALAM (BLOCK No.25)	39/3	0	02	07
	394/4	0	13	56
	39/5	0	07	43
	40/9	0	07	45
	40/11	0	10	21
	40/16	0	00	45
	40/17	0	09	69
	44/7	0	08	96
	44/10	0	05	93
	44/11	0	01	56
	44/13	0	02	53
	44/14	0	02	91
	44/15	0	04	55
	44/16	0	10	41
	46/5	0	02	48
	46/6	0	03	55
	46/7	0	03	73
	46/8	0	08	02
	46/9	0	00	33
	46/10	0	03	50
	46/11	0	00	11
	46/17	0	01	05
	47/2	0	05	48
	58/11	0	02	73
	58/12	0	03	24
	58/13	0	02	11
	58/14	0	01	43
	58/15	0	03	66
	58/16	0	03	64
	59/1	0	01	85
	59/2	0	08	91
	59/3	0	02	91
	59/4	0	02	51
	60/1	0	03	62
	60/3	0	08	94
KIZHAKKAMBALAM (BLOCK No.25)	61/10	0	04	39
	62/10	0	02	88
	62/11	0	02	38

	62/12	0	05	06
	62/14	0	03	41
	62/15	0	02	12
	62/16	0	03	47
	63/2	0	02	32
	63/3	0	02	08
	63/5	0	02	18
	63/6	0	02	47
	63/7	0	02	48
	63/8	0	05	23
	63/9	0	10	86
	90/4	0	04	54
	90/6	0	04	48
	90/7	0	03	50
	90/10	0	04	21
	90/11	0	07	00
	91/11	0	04	87
	91/12	0	05	03
	91/13	0	06	35
	91/14	0	04	21
	91/15	0	02	18
	91/16	0	01	53
	91/17	0	02	51
	101/9	0	05	78
	101/10	0	04	68
	101/11	0	00	38
	101/12	0	00	24
MARAMPILLY (BLOCK No. 24)	49/1	0	00	32
	49/2	0	00	17
	54/7	0	00	22
	54/11	0	00	11
VAZHAKKULAM (BLOCK No.24)	61/9	0	02	13
	61/12	0	01	18
	61/18	0	02	71
	61/19	0	00	22
STATE : KERALA	**DISTRICT : ERNAKULAM**		**TALUK : ALUVA**	
ALUVA EAST (BLOCK No.35)	163/5	0	00	22
	207/6	0	10	02
	208/4	0	00	49

	208/12	0	03	15
	208/15	0	00	47
	213/6	0	01	87
	213/7	0	02	23
	213/8	0	03	03
	213/9	0	00	61
	213/10	0	00	82
	213/11	0	03	06
	213/12	0	06	51
	21/13	0	08	97
	213/15	0	04	75
	218/5	0	00	08
	218/6	0	03	76
	218/7	0	00	63
	218/8	0	01	92
	218/9	0	04	24
	218/10	0	03	28
	218/11	0	00	95
	218/13	0	03	09
	218/16	0	03	59
	218/17	0	02	85
	218/18	0	03	20
KEEZHMADU BLOCK No. 32	150/6	0	07	37
	153/8	0	00	22
	156/6	0	00	65
	279/13	0	01	52
	280/2	0	00	29
	282/8	0	00	20
	282/11	0	00	13
	282/13	0	00	37
	307/3	0	04	44
	307/5	0	03	06
VADAKKUMBHAGAM BLOCK No.28	192/6	0	00	97

[F. No. R-12031/196/2017-OR-I/E-19746]

PAWAN KUMAR, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 24 सितम्बर, 2018

का. आ. 1446.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, निदे ाक, दक्षिण मध्य क्षेत्र केंद्र (एससीजेडसीसी), नागपुर एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके

कर्मकारों के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नागपुर के पंचाट (CGIT/NGP/17/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.09.2018 को प्राप्त हुआ था।

[सं. एल–42012/03/2013–आईआर (डीयू)]

राजेंद्र जो ाी, उप निदे ाक

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 24th September, 2018

S.O. 1446.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (CGIT/NGP/17/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the industrial dispute between the employers in relation to the Director, South Central Zone Cultural Centre (SCZCC), Nagpur and their workmen, which was received by the Central Government on 12.09.2018.

[F. No. L-42012/03/2013– IR(DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE SHRI S.S. GARG, PRESIDING OFFICER, CGIT-CUM-LABOURT COURT, NAGPUR

Case No.CGIT/NGP/17/2013-14 Date: 30.08.2018

Party No.1 **:** The Director,
South Central Zone Cultural Centre (SCZCC),
56/1, Opposite of MLA Hostel,
Civil Lines, Nagpur – 440001.

Versus

Party No.2 : Ms. Ranabai W/o Shankar Gedam,
R/o Near Shyamrao Mandlik's House,
Hajari Pahad, Vayusena Nagar,
Nagpur - 440013.

AWARD

(Dated: 30th August 2018)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employer, in relation to the management of South Central Zone Cultural Centre (SCZCC) and their workman, Ms Ranabai W/o Shankar Gedam for adjudication, as per letter **No.L-42012/03/2013- (IR(DU) dated 26.04.2013,** with the following schedule:-

"Whether the action of the management of South Central Zone Cultural Centre, Nagpur in retrenching the services of Ms. Ranabai w.e.f. 01.10.2004 after filing case of the regularisation of her services before Industrial court is just, fair or legal? What relief, the applicant is entitled to?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the workman; Smt. Ranabai ("the workman" in short) filed the statement of claim on 26.11.2013, but the management of South Central Zone Cultural Centre ("Party No. 1" in short) did not file any written statement. Even they did not cross-examine the workman, so proceedings against Party No. 1 remained ex-parte. On behalf of the Party No. 1, Mr. Prasad A. Abhyankar, advocate filed vakalatnama on 15.10.2013. On servicing of further notice, Mr. Sudarshan J. Patil filed authority letter of Director on 08.05.2018, but nobody appeared on behalf of the Party No. 1 after that.

3. **Fact of the case:**

According to the workman, 1987, she came to be appointed with Party No. 1 in the capacity of Garden Labour on the wages of Rs. 350/- per month for a period of 3 months. This period was extended time to time without giving any break. According to the workman, Party No. 1 did not give him any holiday or sick leave, even on Sunday, she was

supposed to work. According to the workman, she had completed 240 days of service in every year, so she completed near about 17 years of service without any break and she acquired the status of permanent employee.

4. According to the workman, Party No. 1 is a society registered under Bombay Public Trust Act and Societies Registration Act under authority of Central Govt., Central Govt. is an appropriate government. According to the workman, she was initially appointed as a temporary worker, but Party No. 1 did not regularize her even completion of 17 years of service. According to her, it is unfair labour practice on behalf of the Party No. 1, which is illegal, arbitrary and malafide. According to her, Party No. 1 issued termination order without complying the provision of 25-F & G of the above Act. She also prayed that, she is entitled for retrenchment compensation @ 50 days wages for every complete year or in excess of six months. She also prayed that, she filed her claim before 3rd Labour Court, Nagpur, which was decided on 21.11.2011.

5. According to the workman, Party No. 1 paid a cheque of Rs. 18,900/- towards retrenchment compensation without proper calculation, so she prayed that, she may be reinstated in the service with back wages and also prayed legal retrenchment compensation with cost.

6. On behalf of the Party No. 1, as I stated above, no written statement was filed, but they filed an application dated 08.05.2018, in which they prayed that, matter was finally decided by the concerned Labour Court. They also prayed that, the workman had preferred an application before the ALC(C), Nagpur with a request to hold the conciliation proceedings and requested to reject the representation of the workman summarily. According to the Party No. 1, there is no substantial question involved in this case.

7. **Point of determination:**

i. Whether the workman is entitled to regularization?

ii. Whether the retrenchment compensation is proper?

iii. Whether the workman is entitled to required relief?

8. **Reasons for decision:**

On behalf of the workman, she relied on case laws, Management of Prajatantra Prachar Samity Vs, Cuttack Press Workers' Union 2013 LLJ 320, Union of India Vs. Ganga Ram 2013 I LLJ 766, Devinder Singh Vs. Municipal Coucil, Sanaur 2011 II CLR 461, Ratan Singh Vs. Union of India 1997 11 SCC 396, Maaharashtrala State Road Transport Corp. Vs. Casteribe Rajya P. Karmachari Sanghatana 2009 III CLR 262 = AIR 2009 SC (Supp) 2656, Director of Fisheries Terminal Division Vs. Bhikubhai Meghajibhai Chavda AIR 2010 SC 1236 and R.M. Bank of India Vs. CGIT-cum-Labour Court Kanpur 2013(137) FLR 1043, in which following principles are laid down:-

i. "The Tribunal has given a specific finding that the juniors to the workman remained in employment and that after the termination of the workman new workers were engaged the Court is of the opinion, that the action of the respondents in terminating the services of the workman was not based on any justifiable reasons".

ii. "Burden of proof shifts to employer to prove that he did not complete 240 days of service in requisite period to constitute continuous service".

iii. "Complaints of Unfair Labour Practice…….held that, unrecognized union which filed complaints in Industrial Court at Bombay was not competent to filed complaints of unfair labour practice……However in exercise of power under Art. 142 of the Constitution of India".

iv. "Termination of service of such a workman without complying with S. 25-F, held, illegal – However, 20 long years having elapsed since termination, instead of directing reinstatement, a sum of Rs. 25,000/- to be paid in lieu of reinstatement and back wages".

v. "Jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal".

vi. "A person should not be kept in a temporary and ad hoc status for long. Where a temporary or ad hoc appointee is continued for long, the Court presumes that there is need and warrant for a regular post".

vii. "Held, even though appointment of Respondent No. 1 was part-time, he performed his duties for more than 8 hours a day and was continuously working with Petitioner department …….. Completed more than 10 years of service, is entitled to be considered for regularization in view of instruction issued by Petitioners".

I fully agree with the principles laid down by the Hon'ble Judges in the above ca se laws. I also want to point out some other case laws:-

9. B.C. Ramkrishna Vs. State 2003 LIC 1014 (Karnataka), Dr. Mrs. Chanchal Goyal Vs. State of Raj 2003 LIC 1141 (SC), Ashiwani Kumar vs. State of Bihar 1997 LIC 578 (SC), M.P. State Agro Vs. S.C. Pande 2006 SCC(L&S) 434, Delhi Development Vs. Delhi Administration 1992 SCC(L&S) 805, Secretary State of Karnataka Vs. Umadevi 2006 SCC(L7S) 753, State of Karnataka Vs. G.V. Chandrashekhar 2009 I SCC(L&S) 834, Vice chancellor Lucknow Vs.

Akhilesh Kumar 2016 I SCC(L&S) 186 and Talwara Cooperative Vs. Sushil Kumar 2008 2 SCC(L&S) 931, in which, following principles are laid down:-

i. Held, "The challenge to the order of dismissal passed against the petitioner on the ground of long continuance as ad hoc/temporary employee would not be tenable …….mere continuance does not imply such waiver……no waiver which would be against requisite compliances can be countenanced".

ii. Held, "Right to regularisation, if any, on completion of 240 days' continuous service……..by itself would not confer any legal right upon him to be regularized in service".

iii. "Absorption, regularisation, or permanent continuance of temporary, contractual, casual, daily wage or ad hoc employees appointed/recruited dehors the constitutional scheme of public directions amount to creating another mode of public appointment, which is not permissible"

iv. It is also held that, in para 54 in the case of 2006 SCC(L&S) 753, it is also held that, "Those decisions which run counter to the principle settled in this decision, or in which directions running counter to what we have held herein, will stand denuded of their status as precedents".

v. Ad hoc appointments continuing for a long time, reiterated, cannot be ordered to be regularized.

vi. Daily wager, considering that, respondent was out of employment for more than 20 years and could not seek regular appointment elsewhere due to over age, compensation of 4 lacs directed to pay to each respondent.

Now I want to discuss the factual argument of the workman.

10. On behalf of the workman, it was argued that, she came to be appointed with the Party No. 1 in the capacity of Garden Labour as a temporary worker for three months, which was extended for further period without any gap/break i.e. she was in continuous service up to 2002. She also asserted that, she had completed 240 days of services in every calendar year and acquired the status of permanent employee, but no document was filed on behalf of the workman, except Labour Court Order dated 21.11.2011. This order was passed by learned Labour Judge on hearing of both parties, in which he gave some observations about the service career of the workman. This evidence remained un-crossed or unchallenged by the Party No. 1, because proceedings in this case remained ex-parte after appearance of advocate or representative of Party No. 1. Now I want to mention some observations given by learned Labour Court Judge:-

i. In para 12 of the judgment, court observed that, filing of complaint before the Industrial Court for regularization is also not disputed by the respondent -"Working by complainant with respondent is not a dispute between the parties".

ii. "Termination order dated 30.09.2004 …… is not disputed. --- Compensation determined U/s 25-F of the I.D. Act …….. for Rs. 18900/- dated 30.09.2004".

iii. In para 14 of the judgment, it was observed that, "Appointment of complainant for period of three months w.e.f. 01.01.2001 on contract basis with monthly remuneration ……. Appears to be same nature and without any break……..this amounts to continuous service rendered by the complainant's proceeding to their termination…….there was rendering of 240 days continuous service on the basis of appointment orders and documents…….it is necessary for the respondent to comply the provision of section 25-F and 25-G of the I.D. Act".

iv. In para 16 of the judgment, "On coming to the non-compliance of Section 25-F and 25-G of I.D. Act, amounts to a ground in this complaint to declare termination as illegal…….case of complainant falls under I.D. Act subject to appropriate government".

The learned Labour Judge also observed that, Central Government is an appropriate authority. Moreover, this reference came from Central Government order dated 24.05.2013. This Tribunal has no jurisdiction to decide the power of the Central Government. So, bounden duty of this Tribunal to decide this reference according to the law, I take my guidance from the principles laid down in the following case laws:-

Hindustan Lever Ltd. Vs. Hindustan Lever Ltd, (1984) 4 SCC 392 and National Engineering Industries Ltd., AIR 2000 SC 469 is that:- "Section 10(1) confers power on the appropriate Government to refer an existing or apprehended Industrial Dispute, amongst others, to the Industrial Tribunal for adjudication. The dispute therefore, which can be referred for adjudication of necessity, has to be an industrial dispute which would clothe the appropriate Government with power to make the reference and the Industrial Tribunal to adjudicate it." "Jurisdiction of the Industrial Tribunal, which could be examined by the High Court in its writ jurisdiction. It is the existence of the Industrial Tribunal which would clothe the appropriate Government with power to make the reference and the Industrial Tribunal to adjudicate it."

11. In above case law (AIR 2010 SC 1236), it was observed that, burden of proof shift to employer to prove that the workman did not complete 240 days. In case law [2013 (137) FLR 1043], it was observed that, after the termination of the workman, new workers were engaged……terminating the service of the workman was not based on any justifiable reasons. In case law [(1997) 11 SCC 396], it was observed that, instead of directing reinstatement, a sum of Rs. 25,000/- in lieu of reinstatement. This view is also supported by Hon'bles in case laws:-

In case law— Delhi Transport Corp. vs. Ombir Singh 2017 LLR 252, Hon'ble Lordship held that "Where principles of natural justice are not being complied with, then in such cases, compensation ought to be granted even if termination of service is found to be valid". On the basis of principle laid down in Engineering Laghu Udhyog Employees Union vs Judge, Labour Court and Industrial Tribunal & others – (2003) 12 SCC 1 in which it was held that:- "no difference whether the matter comes before the tribunal for approval under S.33 or on a reference under S.10 of the Industrial Dispute Act, 1947. In either case if the enquiry is defective or if no enquiry has been held as required by Standing Orders, the entire case would be open before the tribunal and the employer would have to justify on facts as well that its order of dismissal or discharge was proper." "A defective enquiry in our opinion stands on the same footing as no enquiry and in either case the tribunal would have jurisdiction to go into the facts and the employer would have to satisfy the tribunal that on facts the order of dismissal or discharge was proper." These principles are also laid down by Hon'ble Supreme Court in case laws- Punjab Urban Planning & Development authority Vs. Mandip Singh (2016) 7 SCC-571, UPSRTC Vs. Gopal Shukla (2015) SCC 603, Sanjay Singh Vs. National Seed Corporation (2017) 13 SCC 269, V.D. Vegad Vs. State of Gujurat (2017) 2 SCC 508 and Angikr Oriental (Arbic) Higher Secondary School Vs. A. Harnoon (2017) 2 SCC 510.

12. Judging the present case in hand with touch stone of principles as mentioned above, I observed that, Party No. 1 did not participate in this case proceedings knowingly. On behalf of the workman, it was also argued that, workman is old lady; she is running near about 58 years, so she prayed that, suitable compensation must be awarded. I also observed that, she was working in Party No. 1's department near about 15 years. It is also correct to say that, Party No. 1 paid some compensation, but in my opinion, this compensation is not sufficient as per length of the service. So, in my humble opinion, workman is entitled for 1 lac compensation (Rupees one lac only) in lieu of reinstatement in service and back wages. Hence, it is ordered:-

ORDER

The action of the management of South Central Zone Cultural Centre, Nagpur in retrenching the services of Ms. Ranabai w.e.f. 01.10.2004 after filing case of the regularisation of her services before Industrial court is not just, fair or legal, so she is entitled for Lumpsum monetary compensation of Rs. 1,00,000/- (Rupees one lac only) in lieu of reinstatement in service, which is payable within one month from the publication of this award in official gazette, failing which, amount due to workman will carry interest of 6% per annum from the date of due to the workman to the date of actual payment of the amount to the workman. The workman is not entitled for any other relief.

SHYAM SUNDER GARG, Presiding Officer

नई दिल्ली, 24 सितम्बर, 2018

का. आ. 1447.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, महाप्रबंधक, ऑर्डेंस फैक्ट्री, भंडारा, महाराश्ट्र एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नागपुर के पंचाट (CGIT/NGP/15/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.09.2018 को प्राप्त हुआ था।

[सं. एल–14011/24/2017–आईआर (डीयू)]

राजेंद्र जो ी, उप निदे ाक

New Delhi, the 24th September, 2018

S.O. 1447.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (CGIT/NGP/17/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the industrial dispute between the employers in relation to the General Manager, Ordance Factory, Bhandara, Maharashtra and their workmen, which was received by the Central Government on 12.09.2018.

[No. L-14011/24/2017– IR(DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE SHRI S.S. GARG, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No.CGIT/NGP/15/2018-19 Date: 03.08.2018

Party No.1 : The General Manager,
Ordnance Factory,
Bhandara, PO Ord FY Bhandara,
Bhandara (M.S.) – 441906.

Versus

Party No.2 : The General Secretary,
Ordnance Factory Employees Union,
C/o ordnance Factory,
Bhandara PO Ord. FY. Bhandara,
Distt. Bhandara (M.S.) – 441906.

AWARD

(Dated: 03rd August, 2018)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employer, in relation to the management of Ordnance Factory, Bhandara and their union, Ordnance Factory Employees Union for adjudication, as per letter **No.L-14011/24/2017-IR(DU) dated 17.04.2018,** with the following schedule:-

"Whether the action of the Union Ordnance Factory Employees Union (OFEU) by not following the rules, regulations and directives of the Govt. of India and creating unhealthy industrial relations atmosphere in the Ordnance factory, Bhandara thus interfering in the production activities of the factory during the period 09.04.2017 to 15.04.2017, as alleged by the management of Ordnance Factory, Bhandara, is legal and justified? What directions are necessary in this case?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement, by registered post with acknowledge due, but no party filed any statement of claim or W.S. On behalf of the Party No. 1, Mr. Prabhasa Bhoi filed an affidavit on 13.07.2018 with list of documents.

3. Today, Party No. 1 filed an application to withdraw the reference, which is marked as I.A. No. 1 and also filed "No Objection" certificate on behalf of the union dated 28.07.2018. Today, representative for the Party No. 1 filed this application with his I.D. proof. Affidavit dated 07.07.2018 also supports this application by stating that, matter/issue has been settled. It appears that, Party No. 1 does not want to continue this reference. So, application for withdrawal of the reference is allowed. Hence, it is ordered:

ORDER

The reference is answered in the negative and against the management. The management is not entitled to any relief.

SHYAM SUNDER GARG, Presiding Officer

नई दिल्ली, 24 सितम्बर, 2018

का. आ. 1448.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, मुख्य महाप्रबंधक, बीएसएनएल, बुलढाणा, महाराष्ट्र और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नागपुर के पंचाट (CGIT/NGP/54/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.09.2018 को प्राप्त हुआ था।

[सं. एल—40012/03/2016—आईआर (डीयू)]

राजेंद्र जो ाी, उप निदे ाक

New Delhi, the 24th September, 2018

S.O. 1448.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (CGIT/NGP/54/2015) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the industrial dispute between the employers in relation to the Chief General

Manager, BSNL, Buldhana, Maharashtra and their workmen, which was received by the Central Government on 12.09.2018.

[No. L-40012/03/2016–IR(DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE SHRI S.S. GARG, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/54/2015-16 Date: 08.08.2018

Party No.1(a) : The Chief General Manager,
Bharat sanchar Nigam Limited, Khamgaon,
Tehsil: Khamgaon,
Buldhana (M.S.) – 444303.

Party No.1(b) : The Assistant General Manager (Planning),
Bharat Sanchar Nigam Limited, Khamgaon,
Buldhana (M.S.) – 444303.

Versus

Party No.2 : Shri Sheikh salim sheilh Budhan & 10 others
At/PO/Tehsil – Jalgoan (Jamod),
Buldhana (M.S.) – 443402.

AWARD

Dated: 08th August, 2018

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employer, in relation to the management of Bharat Sanchar Nigam Limited and their workmen, Shri Sheikh Salim Sheikh Budhan & 10 others for adjudication, as per letter No.L-40012/03/2016- IR(DU) dated 07.03.2016, with the following schedule:-

"Whether the action of the management of Bharat Sanchar Nigam Limited, Khamgaon Distt. Buldhana in terminating the service of workman 1) Shri Sheikh Salim Sheikh 2) Sh. Sudhakar Tukaram Jadhao 3) Sh. Ajay Shivaji Pawar 4) Sh. Kashinath Shambhu Chanchne 5) Sh. Goutam Namdeo Surwade 6) Sh. Ramdas Devidas Chandurkar 7) Sh. Sunil Sashiram Wakode 8) Sh. Vitthal Jairam Gadhave 9) Sh. Vishal Ramesh Kaotekar 10) Sh. Vinod Ram More & 11) Sh. Anil Shantaram Gudekar are just, fair & legal? If not, to what relief the concerned eleven workmen are entitled to?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement, by registered post with acknowledge due, but the workmen did not appear or file statement of claim. On behalf of the Party No. 1, filed written statement. It shows that, workmen are not interested to continue this reference. This reference is pending from 08.06.2016. So, reference is closed. Hence, it is ordered:

ORDER

The reference is answered in the negative and against the petitioners. The petitioners are not entitled to any relief.

SHYAM SUNDER GARG, Presiding Officer

नई दिल्ली, 24 सितम्बर, 2018

का. आ. 1449.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, निदेशक, दक्षिण मध्य क्षेत्र सांस्कृतिक केन्द्र (एससीजेडसीसी), नागपुर एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नागपुर के पंचाट (CGIT/NGP/21/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.09.2018 को प्राप्त हुआ था।

[सं. एल–42012/11/2013–आईआर (डीयू)]

राजेंद्र जो ी, उप निदे ाक

New Delhi, the 24th September, 2018

S.O. 1449.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (CGIT/NGP/21/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the industrial dispute between the employers in relation to the Director, South

Central Zone Cultural Center (SCZCC), Nagpur, Maharashtra and their workmen, which was received by the Central Government on 12.09.2018.

[No. L-42012/11/2013– IR(DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE SHRI S.S. GARG, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No.CGIT/NGP/21/2013-14

Date: 30.08.2018

Party No.1 : The Director,
South Central Zone Cultural Centre (SCZCC),
56/1, Opposite of MLA Hostel,
Civil Lines, Nagpur – 440001.

Versus

Party No.2 : Ms. Saraaswatabai Gajanan Gajbhiye,
R/o Near Gautam Kirana Store,
Jagdish Nagar, Makardhakda,
Katol Road, Nagpur - 440013.

AWARD

Dated: 30th August, 2018

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employer, in relation to the management of South Central Zone Cultural Centre (SCZCC) and their workman, Ms Saraswatabai Gajanan Gajbhiye for adjudication, as per letter **No.L-42012/11/2013- IR(DU) dated 24.05.2013,** with the following schedule:-

> **"Whether the action of the management of South Central Zone Cultural Centre, Nagpur in retrenching the services of Ms. Saraswatabai Gajanan Gajbhiye w.e.f. 01.10.2004 after filing case of the regularisation of her services before Industrial court is just, fair or legal? What relief the workman is entitled to?"**

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the workman; Smt. Saraswatibai Gajanan Gajbhiye ("the workman" in short) filed the statement of claim on 26.11.2013, but the management of South Central Zone Cultural Centre ("Party No. 1" in short) did not file any written statement. Even they did not cross-examine the workman, so proceedings against Party No. 1 remained ex-parte. On behalf of the Party No. 1, Mr. Prasad A. Abhyankar, advocate filed vakalatnama on 15.10.2013. On servicing of further notice, Mr. Sudarshan J. Patil filed authority letter of Director on 08.05.2018, but nobody appeared on behalf of the Party No. 1 after that.

3. **Fact of the case:**

According to the workman, 1987, she came to be appointed with Party No. 1 in the capacity of Garden Labour on the wages of Rs. 350/- per month for a period of 3 months. This period was extended time to time without giving any break. According to the workman, Party No. 1 did not give him any holiday or sick leave, even on Sunday, she was supposed to work. According to the workman, she had completed 240 days of service in every year, so she completed near about 17 years of service without any break and she acquired the status of permanent employee.

4. According to the workman, Party No. 1 is a society registered under Bombay Public Trust Act and Societies Registration Act under authority of Central Govt., Central Govt. is an appropriate government. According to the workman, she was initially appointed as a temporary worker, but Party No. 1 did not regularize her even completion of 17 years of service. According to her, it is unfair labour practice on behalf of the Party No. 1, which is illegal, arbitrary and malafide. According to her, Party No. 1 issued termination order without complying the provision of 25-F & G of the above Act. She also prayed that, she is entitled for retrenchment compensation @ 50 days wages for every complete year or in excess of six months. She also prayed that, she filed her claim before 3rd Labour Court, Nagpur, which was decided on 21.11.2011.

5. According to the workman, Party No. 1 paid a cheque of Rs. 18,900/- towards retrenchment compensation without proper calculation, so she prayed that, she may be reinstated in the service with back wages and also prayed legal retrenchment compensation with cost.

6. On behalf of the Party No. 1, as I stated above, no written statement was filed, but they filed an application dated 08.05.2018, in which they prayed that, matter was finally decided by the concerned Labour Court. They also prayed that, the workman had preferred an application before the ALC(C), Nagpur with a request to hold the conciliation proceedings and requested to reject the representation of the workman summarily. According to the Party No. 1, there is no substantial question involved in this case.

7. **Point of determination:**

i. Whether the workman is entitled to regularization?

ii. Whether the retrenchment compensation is proper?

iii. Whether the workman is entitled to required relief?

8. **Reasons for decision:**

On behalf of the workman, she relied on case laws, Management of Prajatantra Prachar Samity Vs, Cuttack Press Workers' Union 2013 LLJ 320, Union of India Vs. Ganga Ram 2013 I LLJ 766, Devinder Singh Vs. Municipal Coucil, Sanaur 2011 II CLR 461, Ratan Singh Vs. Union of India 1997 11 SCC 396, Maaharashtrala State Road Transport Corp. Vs. Casteribe Rajya P. Karmachari Sanghatana 2009 III CLR 262 = AIR 2009 SC (Supp) 2656, Director of Fisheries Terminal Division Vs. Bhikubhai Meghajibhai Chavda AIR 2010 SC 1236 and R.M. Bank of India Vs. CGIT-cum-Labour Court Kanpur 2013(137) FLR 1043, in which following principles are laid down:-

i. "The Tribunal has given a specific finding that the juniors to the workman remained in employment and that after the termination of the workman new workers were engaged the Court is of the opinion, that the action of the respondents in terminating the services of the workman was not based on any justifiable reasons".

ii. "Burden of proof shifts to employer to prove that he did not complete 240 days of service in requisite period to constitute continuous service".

iii. "Complaints of Unfair Labour Practice…….held that, unrecognized union which filed complaints in Industrial Court at Bombay was not competent to filed complaints of unfair labour practice……However in exercise of power under Art. 142 of the Constitution of India".

iv. "Termination of service of such a workman without complying with S. 25-F, held, illegal – However, 20 long years having elapsed since termination, instead of directing reinstatement, a sum of Rs. 25,000/- to be paid in lieu of reinstatement and back wages".

v. "Jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal".

vi. "A person should not be kept in a temporary and ad hoc status for long. Where a temporary or ad hoc appointee is continued for long, the Court presumes that there is need and warrant for a regular post".

vii. "Held, even though appointment of Respondent No. 1 was part-time, he performed his duties for more than 8 hours a day and was continuously working with Petitioner department …….. Completed more than 10 years of service, is entitled to be considered for regularization in view of instruction issued by Petitioners".

I fully agree with the principles laid down by the Hon'ble Judges in the above case laws. I also want to point out some other case laws:-

9. B.C. Ramkrishna *Vs.* State 2003 LIC 1014 (Karnataka), Dr. Mrs. Chanchal Goyal *Vs.* State of Raj 2003 LIC 1141 (SC), Ashiwani Kumar *vs.* State of Bihar 1997 LIC 578 (SC), M.P. State Agro *Vs.* S.C. Pande 2006 SCC(L&S) 434, Delhi Development *Vs.* Delhi Administration 1992 SCC(L&S) 805, Secretary State of Karnataka Vs. Umadevi 2006 SCC(L7S) 753, State of Karnataka Vs. G.V. Chandrashekhar 2009 I SCC(L&S) 834, Vice chancellor Lucknow Vs. Akhilesh Kumar 2016 I SCC(L&S) 186 and Talwara Cooperative Vs. Sushil Kumar 2008 2 SCC(L&S) 931, in which, following principles are laid down:-

i. Held, "The challenge to the order of dismissal passed against the petitioner on the ground of long continuance as ad hoc/temporary employee would not be tenable …….mere continuance does not imply such waiver……no waiver which would be against requisite compliances can be countenanced".

ii. Held, "Right to regularisation, if any, on completion of 240 days' continuous service……..by itself would not confer any legal right upon him to be regularized in service".

iii. "Absorption, regularisation, or permanent continuance of temporary, contractual, casual, daily wage or ad hoc employees appointed/recruited dehors the constitutional scheme of public directions amount to creating another mode of public appointment, which is not permissible"

iv. It is also held that, in para 54 in the case of 2006 SCC(L&S) 753, it is also held that, "Those decisions which run counter to the principle settled in this decision, or in which directions running counter to what we have held herein, will stand denuded of their status as precedents".

v. Ad hoc appointments continuing for a long time, reiterated, cannot be ordered to be regularized.

vi. Daily wager, considering that, respondent was out of employment for more than 20 years and could not seek regular appointment elsewhere due to over age, compensation of 4 lacs directed to pay to each respondent.

Now I want to discuss the factual argument of the workman.

10. On behalf of the workman, it was argued that, she came to be appointed with the Party No. 1 in the capacity of Garden Labour as a temporary worker for three months, which was extended for further period without any gap/break i.e. she was in continuous service up to 2002. She also asserted that, she had completed 240 days of services in every calendar year and acquired the status of permanent employee, but no document was filed on behalf of the workman, except Labour Court Order dated 21.11.2011. This order was passed by learned Labour Judge on hearing of both parties, in which he gave some observations about the service career of the workman. This evidence remained un-crossed or unchallenged by the Party No. 1, because proceedings in this case remained ex-parte after appearance of advocate or representative of Party No. 1. Now I want to mention some observations given by learned Labour Court Judge:-

i. In para 12 of the judgment, court observed that, filing of complaint before the Industrial Court for regularization is also not disputed by the respondent -"Working by complainant with respondent is not a dispute between the parties".

ii. "Termination order dated 30.09.2004 …… is not disputed. --- Compensation determined U/s 25-F of the I.D. Act …….. for Rs. 18900/- dated 30.09.2004".

iii. In para 14 of the judgment, it was observed that, "Appointment of complainant for period of three months w.e.f. 01.01.2001 on contract basis with monthly remuneration ……. Appears to be same nature and without any break……..this amounts to continuous service rendered by the complainant's proceeding to their termination…….there was rendering of 240 days continuous service on the basis of appointment orders and documents…….it is necessary for the respondent to comply the provision of section 25-F and 25-G of the I.D. Act".

iv. In para 16 of the judgment, "On coming to the non-compliance of Section 25-F and 25-G of I.D. Act, amounts to a ground in this complaint to declare termination as illegal…….case of complainant falls under I.D. Act subject to appropriate government".

The learned Labour Judge also observed that, Central Government is an appropriate authority. Moreover, this reference came from Central Government order dated 24.05.2013. This Tribunal has no jurisdiction to decide the power of the Central Government. So, bounden duty of this Tribunal to decide this reference according to the law, I take my guidance from the principles laid down in the following case laws:-

Hindustan Lever Ltd. *Vs*. Hindustan Lever Ltd, (1984) 4 SCC 392 and National Engineering Industries Ltd., AIR 2000 SC 469 is that:- "Section 10(1) confers power on the appropriate Government to refer an existing or apprehended Industrial Dispute, amongst others, to the Industrial Tribunal for adjudication. The dispute therefore, which can be referred for adjudication of necessity, has to be an industrial dispute which would clothe the appropriate Government with power to make the reference and the Industrial Tribunal to adjudicate it." "Jurisdiction of the Industrial Tribunal, which could be examined by the High Court in its writ jurisdiction. It is the existence of the Industrial Tribunal which would clothe the appropriate Government with power to make the reference and the Industrial Tribunal to adjudicate it."

11. In above case law (AIR 2010 SC 1236), it was observed that, burden of proof shift to employer to prove that the workman did not complete 240 days. In case law [2013 (137) FLR 1043], it was observed that, after the termination of the workman, new workers were engaged……terminating the service of the workman was not based on any justifiable reasons. In case law [(1997) 11 SCC 396], it was observed that, instead of directing reinstatement, a sum of Rs. 25,000/- in lieu of reinstatement. This view is also supported by Hon'bles in case laws:-

In case law--- Delhi Transport Corp. *vs.* Ombir Singh 2017 LLR 252, Hon'ble Lordship held that "Where principles of natural justice are not being complied with, then in such cases, compensation ought to be granted even if termination of service is found to be valid". On the basis of principle laid down in Engineering Laghu Udhyog Employees Union *vs.* Judge, Labour Court and Industrial Tribunal & others – (2003) 12 SCC 1 in which it was held that:- "no difference whether the matter comes before the tribunal for approval under S.33 or on a reference under S.10 of the Industrial Dispute Act, 1947. In either case if the enquiry is defective or if no enquiry has been held as required by Standing Orders, the entire case would be open before the tribunal and the employer would have to justify on facts as well that its order of dismissal or discharge was proper." "A defective enquiry in our opinion stands on the same footing as no enquiry and in either case the tribunal would have jurisdiction to go into the facts and the employer would have to satisfy the tribunal that on facts the order of dismissal or discharge was proper." These principles are also laid down by

Hon'ble Supreme Court in case laws- Punjab Urban Planning & Development authority Vs. Mandip Singh (2016) 7 SCC-571, UPSRTC *Vs.* Gopal Shukla (2015) SCC 603, Sanjay Singh Vs. National Seed Corporation (2017) 13 SCC 269, V.D. Vegad Vs. State of Gujurat (2017) 2 SCC 508 and Angikr Oriental (Arbic) Higher Secondary School *Vs.* A. Harnoon (2017) 2 SCC 510.

12. Judging the present case in hand with touch stone of principles as mentioned above, I observed that, Party No. 1 did not participate in this case proceedings knowingly. On behalf of the workman, it was also argued that, workman is old lady; she is running near about 58 years, so she prayed that, suitable compensation must be awarded. I also observed that, she was working in Party No. 1's department near about 15 years. It is also correct to say that, Party No. 1 paid some compensation, but in my opinion, this compensation is not sufficient as per length of the service. So, in my humble opinion, workman is entitled for 1 lac compensation (Rupees one lac only) in lieu of reinstatement in service and back wages. Hence, it is ordered:-

ORDER

The action of the management of South Central Zone Cultural Centre, Nagpur in retrenching the services of Ms. Saraswatabai Gajanan Gajbhiye w.e.f. 01.10.2004 after filing case of the regularisation of her services before Industrial court is not just, fair or legal, so she is entitled for Lumpsum monetary compensation of Rs. 1,00,000/- (Rupees one lac only) in lieu of reinstatement in service, which is payable within one month from the publication of this award in official gazette, failing which, amount due to workman will carry interest of 6% per annum from the date of due to the workman to the date of actual payment of the amount to the workman. The workman is not entitled for any other relief.

SHYAM SUNDER GARG, Presiding Officer

नई दिल्ली दिल्ली, 25 सितम्बर, 2018

का. आ. 1450.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आन्ध्रा बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारो के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ सं.101/2009), को प्रकाि ात करती है जो केन्द्रीय सरकार को 25.09.2018 को प्राप्त हुआ था।

[सं. एल–39025/01/2017–आई आर (बी–II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 25th September, 2018

S.O. 1450.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 101*/2009)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court, Hyderabad* as shown in the Annexure, in the industrial dispute between the management of Andhra Bank, and their workmen, received by the Central Government on 25.09.2018.

[No. L-39025/01/2017 - IR(B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: Sri Muralidhar Pradhan, Presiding Officer

Dated the 27th day of August, 2018

INDUSTRIAL DISPUTE L.C. No. 101/2009

Between:

Sri D. Muralidhar Rao,
S/o D.M. Rao,
R/o 16-11-16/G/S/2,
Sai Sagar Sudha Residency,
Prasanthi nagar (W),
Malakpet, Hyderabad. …Petitioner

AND

1. The General Manager(Personal)cum

Appellate Authority, Andhra Bank,
Head Office, Saifabad, Hyderabad.

2. The Chief Manager & Disciplinary Authority,

Zonal Office, Koti, Hyderabad. … Respondents

Appearances:

For the Petitioner : M/s. K. Ananth Rao, T. Chakravarthy & B. Shyam Sunder Rao, Advocates

For the Respondent: M/s. S. Udayachal Rao, S. Vikramaditya Babu & S. Mujib Kumar, Advocates

AWARD

Sri D. Muralidhar Rao who worked as clerk (who will be referred to as workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondent management i.e., Andhra Bank seeking for declaring the proceeding of the 1st Respondent bearing No.666/20/V/T/-656/623 dated 29.11.2005 confirming the order of the 2nd Respondent bearing No.688/20/C-13658/2265 dated 10.8.2005 as illegal, arbitrary and to set aside the same consequently directing the Respondent to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. **As can be seen from the contentions of the Petitioner the claim of Petitioner is briefly as follows**:

The Petitioner was appointed as a clerk in the Andhra Bank, Hyderabad region in the year 1984. He is a visually handicapped person. The Petitioner has put in long years of service and rendered about 20 years of service to the best of his ability and utmost satisfaction of his superiors. The Petitioner has been working in the Head Office for more than 17 years. In the year 2001 the Petitioner was transferred to Srinagar Colony branch. Thereafter obeying the orders of his superiors he reported at Srinagar Colony branch and made a representation to his authorities to retain him in the Head Office in view of his visual problem, stating that he is partially blind. But the Respondents did not pay any heed to his request and transferred him to the above stated branch. It is stated that the Petitioner has neither requested to transfer him to any branch. While he was working at Srinagar Colony branch, due to his visual disability he paid more amounts to the customers than the actual amounts for which the Branch Manager ousted the Petitioner from the job of cashier and entrusted him to a clerical job. The Petitioner was again transferred to Bagh Amberpet branch of Andhra Bank and consequent upon the orders of the superiors the Petitioner joined at Bagh Amberpet branch. The Petitioner submitted that even though in that branch surprisingly he was also asked by the Manager to discharge the duties of Cashier on which the Petitioner had again informed the Manager that he was not in a position to discharge the duty of a Cashier due to his visual problems and requested the Manager not to put him in the said seat. But the Manager had passed order directing the Petitioner to discharge the duty of Cashier for some period. As that was the only vacant post at that branch, with the assurance that after some time he would entrust the said work to another person and the Petitioner will be given other works and as such the Petitioner was compelled to work as a cashier despite of his visual disability and getting the fact to the notice of the concerned superior officers. It is further submitted that the Petitioner was given the post of Cashier and continued as such despite being told that his position as a cashier for a temporary period and that he would be changed very soon. It is also submitted that during the year 2004 the Petitioner was placed under suspension on the allegation that there were some amounts missing from some accounts. Even though the Petitioner was placed under suspension, he was not paid subsistence allowance during that period, for which he was put to great mental agony and financial suffering. While the Petitioner was reeling under this financial problem the Respondents had initiated an enquiry against him by appointing one Enquiry Officer of the Personal Department of the Respondent's bank. The Petitioner was served with notice, and pursuant to the notice the Petitioner filed his show cause defending the proceedings. The Petitioner stated that without following the principles of natural justice the enquiry was conducted, the Petitioner was deprived of engaging defence assistant and also was deprived of participation in the enquiry properly. After completion of enquiry, the charges levelled against the Petitioner were proved. The Enquiry Officer has not conducted the enquiry properly and being biased by the Respondent management he has submitted the enquiry report to the Disciplinary Authority who after receipt of the enquiry report passed the order of dismissal of the Petitioner from service. It is also stated that the submission of the Petitioner was not considered by the Disciplinary Authority. It is also submitted that the enquiry was conducted as per dictates of the Branch Manager and the complainant. The Petitioner preferred an appeal before the Appellate Authority which was also rejected. The Appellate Authority did not give any reasoned order and simply by reiterating the observation of the disciplinary authority has passed the order. The order of the Appellate Authority show that he has not considered the various points raised by the Petitioner in his notes of submission. The order passed by the Appellate Authority is illegal and untenable in the eye of Law. The Appellate Authority was supposed to consider all the relevant facts and to pass a reasoned order on various points raised by the Petitioner in his appeal memo. It is submitted that the punishment imposed against the Petitioner is totally disproportionate, especially when there is no misappropriation of any kind, and as such the punishment imposed by the Respondent management is wholly illegal and untenable in the eye of law. It is further submitted that when there has

been no loss to the bank and there has been no evidence in the domestic enquiry that the Petitioner has misappropriated any amount, extreme punishment of dismissal has been awarded, which is wholly disproportionate to the misconduct. With the above averments, the Petitioner has filed this claim application claiming the relief mentioned above.

3. The Respondents filed counter denying the averments made in the petition, with the averments in brief which runs as follows:

The Respondents in their counter while admitting some of the facts have denied the facts averred in the claim statement. The Respondents have stated that the Petitioner is required to prove all the allegations strictly. The Petitioner is not totally blind as claimed by him. Even as per his own statement he was slightly defective as is common in a vast majority of cases. It is further stated that while the Petitioner was working as a cashier under Single Window System at Bagh Amberpet branch, Hyderabad he was indulged in several malpractices and acts of financial indiscipline which lead to serious irregularities. During the pendency of the enquiry the Petitioner was kept under suspension w.e.f. 10.3.2004 and after thorough investigation into the irregularities he was served with a charge sheet dated 14.3.2004. a) the Petitioner had made accounts totaling to Rs.31,000/- against 8 forged withdrawals in 8 accounts of the customers. b) The Petitioner had temporarily misappropriated the above amounts for his personal use. As the Petitioner denied the charges, one departmental enquiry was conducted. Mr. S. Vasudeva Rao, a Senior Officer, was appointed as the Enquiry Officer. A preliminary enquiry was held on 18.11.2004. The Petitioner participated in the enquiry and pleaded not guilty to the charges. Thereafter regular hearing was conducted on 23.12.2004. In the enquiry, a set of documents on which the Presenting Officer had relied upon was supplied to the Petitioner. Thereafter regular enquiry was posted to 31.1.2005 and it was adjourned to 15.2.2005 and finally the enquiry was conducted and completed on 24.2.2005. During the course of enquiry, the Presenting Officer had examined two witnesses as MW1 and MW2 and marked 43 documents as exhibits from the side of the management. The Petitioner was given fair opportunity to defend himself. Basing on the oral and documentary evidence collected during the course of enquiry, the Enquiry Officer submitted his report on 31.3.2005 and the charges alleged against the Petitioner were duly established. A copy of the enquiry report was supplied to the Petitioner for his submissions. The Petitioner made his submissions on the findings of the Enquiry Officer vide his letter dated 5.8.2005. After considering the entire material available before him including the report of the Enquiry Officer, the contentions/submissions made by the Petitioner from time to time and the evidence adduced during the course of the enquiry, the Disciplinary Authority having regard to the gravity of the charges alleged and established in the enquiry, proposed to impose the penalty of dismissal from bank's service vide proceedings dated 23.7.2005. The Petitioner was given personal hearing against the penalty proposed to be imposed on 29.7.2005 which was attended by the Petitioner. After consideration of the matter afresh, the Disciplinary Authority imposed the penalty of dismissal on the Petitioner from bank's service, as proposed, vide proceedings dated 10.8.2005. The Petitioner preferred an appeal against the above order of the Disciplinary Authority, but the Appellate Authority was agreed with the findings of the Disciplinary Authority and confirmed the order passed by the Disciplinary Authority. The allegation of the Petitioner is false. The order of the Appellate Authority is a well considered order. It is stated that the Petitioner had indulged in a grave misconduct of misappropriation of monies deposited by the customers which has the impact of shattering the faith and confidence reposed by the customers on the bank. The penalty of dismissal "imposed on the Petitioner" is very much commensurate to the gravity of the charges alleged and established in the enquiry. The Petitioner is not entitled to get any relief whatsoever, much less the relief prayed for and with these averments the Respondents submitted for dismissal of the claim application with costs.

4. The domestic enquiry conducted in the present case is held valid and legal vide order dated 14.6.2016.

5. I have already heard arguments of both the parties in this matter.

6. **In view of the above facts, the points for determination are**:

I. Whether the action of the management of Andhra Bank in imposing the punishment of dismissal from service to Sri D.Muralidhar Rao, Clerk w.e.f. 10.8.2005, is legal and justified?

II. Whether the Petitioner is entitled for reinstatement into service?

III. If not, to what other relief he is entitled?

7. The Learned Counsel appearing on behalf of the Petitioner contended that the Petitioner was appointed as a clerk in the Respondent bank in the year 1984. He is a visually handicapped person. He has rendered 20 years of service in the Department and has performed his work satisfactorily. He has been working in the Head Office for more than 17 years. In the year 2001 he was transferred to Srinagar Colony branch. Though he joined there, he made a representation to his authorities to retain him in the Head Office in view of his visual problem, stating that he is partially blind. But the Respondents did not pay any heed to his request and transferred him to the above stated branch. While he was working at Srinagar Colony branch, due to his visual disability he paid more amounts to the customers than the actual amounts for which the Branch Manager ousted the Petitioner from the job of cashier and entrusted clerical work to him. It is further contended that the Petitioner was again transferred to Bagh Amberpet branch of Andhra Bank, and consequent to such order the Petitioner joined at Bagh Amberpet branch. There he was also asked by the Manager to discharge the duties of Cashier on which the Petitioner had again informed the Manager that he was not in a position to discharge the duty of a Cashier due to his visual problem and requested the Manager not to put him in the cashier seat. But the Manager passed the order directing the Petitioner to discharge the duty of Cashier for some period. It is further

contended that during the year 2004 the Petitioner was placed under suspension on the allegation of missing of some amounts from some accounts of the customers. He was not paid subsistence allowance during the period of suspension. The Petitioner was served charge memo and to the charge memo the Petitioner filed his show cause. The Petitioner participated in the enquiry and after completion of the enquiry, the charges levelled against the Petitioner were proved. It is also contended that the Enquiry Officer has not considered the submission of the Petitioner properly and being biased by the Respondent management, the Enquiry Officer submitted the enquiry report to the Disciplinary Authority and after receipt of the enquiry report without taking any alternative view, the Disciplinary Authority passed the order of dismissal. The Petitioner preferred an appeal before the Appellate Authority which was also rejected. The Appellate Authority did not apply his mind and confirmed the order of the Disciplinary Authority. The order passed by the Appellate Authority is illegal and untenable in the eye of Law. The Appellate Authority was supposed to consider and pass a reasoned order. It is further contended that the punishment imposed against the Petitioner is totally disproportionate especially when there is no misappropriation of any kind and there is no loss to the bank. The order of punishment imposed on the Petitioner is totally illegal and not tenable in the eye of Law which needs immediate interference of this Tribunal.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondent contended that the Petitioner is not totally blind as claimed by him. Even as per his own submission, he was slightly defective of eye sight as is common in a vast majority of cases. While the Petitioner was working as a cashier under Single Window System at Bagh Amberpet branch, Hyderabad, he was indulged in several malpractices and acts of financial indiscipline which lead to serious irregularities. During the pendency of the enquiry the Petitioner was kept under suspension w.e.f. 10.3.2004 and after thorough investigation into the irregularities he was served with a charge sheet dated 14.3.2004 under the following heads: a) the Petitioner had made accounts totaling to Rs.31,000/- against 8 forged withdrawals in 8 accounts of the customers. b) The Petitioner had temporarily misappropriated the above amounts for his personal use. As the Petitioner denied the charges, one domestic enquiry was conducted. Mr. S. Vasudeva Rao, a Senior Officer, was appointed as the Enquiry Officer. A preliminary enquiry was held on 18.11.2004. The Petitioner fully participated in the enquiry to put forth his defence. During the enquiry, the Presenting Officer examined two witnesses as MW1 and MW2 and also relied on 43 documents. The Petitioner was given ample opportunity to defend his case. Basing on the oral and documentary evidence collected during the course of the enquiry, the Enquiry Officer submitted his report holding the charges levelled against the Petitioner were established. A copy of the enquiry report was supplied to the Petitioner for his explanation. There after, the Disciplinary Authority passed the order of dismissal of the Petitioner from service. The Petitioner preferred an appeal against the above order of the Disciplinary Authority, but the Appellate Authority was agreed with the findings of the Disciplinary Authority and confirmed the order passed by the Disciplinary Authority. He further contended that the Petitioner challenged the domestic enquiry conducted by the Respondent management, but, after hearing from both the sides, this court held that the domestic enquiry conducted by the management to legal and valid. It is also contended that, since the Petitioner has been involved in misappropriation of customers' money and considering the gravity of the evidence, adequate punishment has been given to the Petitioner. He contended that especially in the bank organization if any person is found to be indulged in misappropriation of money he should not be allowed to work. He also contended that the Petitioner has not only taken the stand that he is handicapped and has not misappropriated the funds of the customers, but the evidence adduced from the side of the Respondent is so strong which can not be disbelieved. The Respondent bank has rightly awarded the punishment which needs no interference.

9. On consideration of the rival contentions of the counsels for both the sides, it is seen that, basing on the allegation of misappropriation of funds, the Respondent bank conducted one Departmental enquiry. The Petitioner fully participated in the Departmental enquiry. In the enquiry, it was clearly established that the Petitioner has misappropriated the funds of the customers. The Petitioner himself has admitted about the misappropriation of funds in his show cause letters. The Petitioner has also admitted about withdrawal of amounts from various accounts of the customers due to his daughter's ill-health, and has requested the bank to forgive him on humanitarian grounds. The Petitioner has also repaid an amounts of Rs.21,000/- to the bank on 10.3.2004. He has clearly mentioned in the credit vouchers for adjustment of the amounts withdrawn by him from the accounts of the customers. All the documents of the Petitioner and the bank had been thoroughly scrutinized by the Enquiry Officer, the Disciplinary Authority as well as the Appellate Authority. The plea of the Petitioner was that as because he was visually handicapped for which he had committed the mistakes and the above plea was not accepted by the Respondent bank. It has been held that not only the Petitioner has misappropriated the amounts of the customers and has done misappropriation of customers' funds and it was with the knowledge of the Petitioner while he was In-charge of cash section. The domestic enquiry conducted by the Department has been held legal and valid by this Tribunal. When there is misappropriation of funds by an employee of the bank, the bank should not allow such employee to continue in the bank service, where people have reposed their confidence. When people have come to the bank to deposit their money for safety, if the , bank employee will be indulged in misappropriation of funds and an employee of the bank will be found misappropriating public funds, obviously people will lose their confidence on the bank and the public institution like bank will be collapsed. In such a situation, the Respondent bank has rightly passed the order of dismissal of the Petitioner from service and it needs no interference.

Thus, Point No.I is answered accordingly.

10. **Point No.II & III**: In view of the findings given in Point No.I, the Petitioner is not entitled to get any relief as prayed for.

Thus, Point No.II & III are answered accordingly.

ORDER

The action of the management of Andhra Bank in terminating the services of Sri D. Muralidhar Rao, clerk w.e.f. 10.8.2005, is legal and justified. Hence, the Petitioner is not entitled to get any relief as prayed for.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 27th day of August, 2018.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 25 सितम्बर, 2018

का. आ.1451.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सैन्ट्रल बैंक आफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ सं. 31/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 25.09.2018 को प्राप्त हुआ था।

[सं. एल–39025/01/2017-आई आर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 25th September, 2018

S.O. 1451.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 31/2010) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court, Hyderabad* as shown in the Annexure, in the industrial dispute between the management of Central *Bank of India,* and their workmen, received by the Central Government on 25.09.2018.

[No. L-39025/01/2017 - IR(B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Sri Muralidhar Pradhan , Presiding Officer

Dated the 30th day of July, 2018

INDUSTRIAL DISPUTE L.C.No. 31/2010

Between:

Sri K. Koteswara Rao,
S/o Venkateswarlu,
R/o H.No.7-33, Goruntla,
Bosu Bomma Centre,
Guntur District. … Petitioner

AND

1. The Assistant General Manager,
Central Bank of India,
Hyderabad Zonal Office,
Bank Street, Koti,
Hyderabad.

2. The Branch Manager,
Central Bank of India,
Guntur Branch, Guntur district. ….Respondents

Appearances:

For the Petitioner : M/s. G. Vidya Sagar, K. Udaya Sree, P. Sudheer Rao & V. Ashok Kumar Reddy, Advocates

For the Respondent : Sri Ch. Siva Reddy, Advocate

AWARD

Sri K. Koteswara Rao who worked as Armed Guard (who will be referred to as workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents seeking to set aside the dismissal order dated 31.5.2007, consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. **The averments made in the petition in brief are as follows**:

The Petitioner workman studied upto VIII Class. Initially he joined in Indian Army at Zabalpur as a Signal Boy. After completion of 3 years training period, he was appointed as a Lineman in Indian Army. He worked in various States in the Country and also participated in the Indo-Pak War in the year 1971 and worked in the Army upto 1984. After completion of Army service, the Petitioner workman joined in the Respondent's bank as an Armed Guard on 7.1.1987 and he has been discharging his duties to the utmost satisfaction of his superiors. While the matter stood thus, he was issued with a memo and suspension order on 23.3.2006 alleging that the Petitioner has committed certain irregularities on 27.2.2006. The Petitioner submitted his explanation to the memo and suspension order denying the charges levelled against him. He has clearly stated in his explanation that he is no way connected with the cheque book bearing No.11576 to 11600 pertaining to SB A/c.11983 of Sri D. V. Srinivasa Rao, and he further stated that he isno way connected to cheque bearing No.11576 Dated 20.2.2006 for Rs.10,000/-, the customer of cheque bearing No.11576 presented the cheque in the bank, some disturbances in the cheque, and the same was returned as unpaid and requested the authorities of the Respondents' bank to drop all further proceedings in the matter. Without considering the same, the Respondent issued charge memo cum suspension order dated 11.8.2006 on the above charges. Not considering the explanation submitted by the workman the Respondents have passed order and conducted a domestic enquiry without giving proper opportunity to the Petitioner/workman, not furnishing relevant documents to him and without following the principles of natural justice. The Enquiry Officer further observed that the Photostat copy of the cheque ME.1 on the basis of charge given to the charge sheeted employee has not been brought out by the Presenting Officer and evidence of the Presenting Officer are grossly inadequate to establish the possession of the cheque by the charge sheeted employee. Hence, the Enquiry Officer held that charge not proved. In view of the enquiry report, instead of dropping all further proceedings in the matter the Disciplinary Authority differed with the findings of the Enquiry Officer and issued show cause notice which is false and incorrect and no valid reasons assigned in the show cause notice with regard to the irregularities committed by the Petitioner. The Petitioner workman has submitted detailed explanation. The Petitioner appeared for personal hearing before the Disciplinary Authority. But, without considering his requests, the Respondent bank imposed major punishment of dismissal from service vide order dated 31.5.2007. The Petitioner workman preferred appeal to that order dated 31.5.2007 and the Appellate Authority also rejected the appeal without any valid reason. It is submitted that since the date of his dismissal the Petitioner workman is facing sever financial difficulties, and as he is the sole bread earner of the family, his entire family is depending on his salary only. Though he has rendered 30 years of continuous service under the Respondent bank, he was imposed with the major penalty of dismissal from service, which is illegal, arbitrary and unjust. Therefore, the Petitioner was constrained to approach this Tribunal to declare the punishment order dated 31.5.2007 issued by the Respondent as illegal and arbitrary and to set aside the same and consequently to direct the Respondent to reinstate the Petitioner into service duly granting all other attendant benefits such as continuity of service, back wages etc..

3. **The Respondents filed counter with averments in brief as follows**:

It is submitted that the Petitioner workman has joined the bank as Armed Guard. While he was working in Guntur, he has committed gross misconduct. And he was kept under suspension on 23.3.2006. As the explanation given by the Petitioner was not satisfactory he was issued with the charge sheet dated 11.8.2006 for the following commissions and omissions:

"It is alleged that a 25-leaves cheque book bearing S.No.11576 to 11600 was entered in cheque book issue register and also in computer system on 15.3.2002 in the name of SB A/c.11983 to Shri Divi Srinivasa Rao. But the first cheque in the series bearing No.11576 dated 20.2.2006 for Rs.10,000/- drawn by Shri K. Koteswara Rao in his own favour first and endorsed later in favour of one Mr. Rajmohan was received in clearing for payment on 27.2.2006 presented by AC College Extension Counter Branch of Syndicate Bank, Guntur. Due to difference in drawer's signature as well as insufficient funds in the account the cheque was returned unpaid to the presenting banker. From the above incident it is evident that Shri Koteswara Rao has come into possession of the cheque book unauthorizedly and also attempted to use it."

An enquiry was conducted. The Petitioner workman was given ample opportunity to cross examine the management witnesses and he has fully participated in the enquiry proceeding. Though opportunity was given, the Petitioner workman failed to utilize the said opportunity. The Enquiry Officer has submitted his report holding the charge was not proved. Since the Enquiry Officer's report was not convincing, the Disciplinary Authority has issued the show cause notice to the workman stating that he is not agreeable to the report of the Enquiry Officer and called for explanation, wherein the Disciplinary Authority categorically stated that, where he is differing with the Enquiry Officer. The Petitioner could not produce satisfactory defense, the Disciplinary Authority has proposed punishment of dismissal from service vide order dated 31.5.2007. It is submitted that the Petitioner was working in the public sector bank dealing with public money and the misconduct committed by the Petitioner is very grave as the same is involved with the money kept in the bank in trust. Even though there is no financial loss by the act of the Petitioner, the management lost the confidence on the Petitioner. Therefore, the punishment awarded to the Petitioner is reasonable and is not abnormal. With the above averments the Respondent bank submitted for dismissal of the petition in limini.

4. In view of the memo filed by the Counsel for the Petitioner not pressing the legality and validity of the domestic enquiry conducted in the present case, is held as legal and valid vide order dated 28.9.2016.

5. I have already heard the Learned Counsels for both the sides in this matter.

6. **In view of the above facts, the points for determination are**:

I. Whether the action of the management of M/s. Singareni Collieries Company Ltd., in imposing the punishment of dismissal from service to Sri K. Koteswara Rao is legal and justified?

II. Whether the Petitioner is entitled for reinstatement into service?

III. If not, to what other relief he is entitled?

7. The Learned Counsel appearing on behalf o the Petitioner workman submitted that the workman joined in the Indian Army at Zabalpur as a Signal Boy. After completion of 3 years training period, he was appointed as a Lineman in Indian Army. He worked in the Army upto 1984 and after completion of Army service, the Petitioner workman joined in the Respondent's bank as an Armed Guard on 7.1.1987 and was discharging his duties satisfactorily. While the matter stood thus, he was issued with a memo and suspension order on 23.3.2006 on the allegation that the Petitioner has committed certain irregularities on 27.2.2006. The Petitioner submitted his explanation to the memo and suspension order denying the charges levelled against him. In his show cause memo the Petitioner submitted that he is no way connected with the cheque book bearing No.11576 to 11600 pertaining to SB A/c.11983 of Sri D. V. Srinivasa Rao, and he further stated that he is no way connected to cheque bearing No.11576 Dated 20.2.2006 of Rs.10,000/-. The customer of cheque bearing No.11576 presented the cheque in the bank, as there was some disturbance in the cheque, the same was returned as unpaid. Thereafter he requested the authorities of the Respondents' bank to drop all the further proceedings initiated against him. But the Respondents issued charge memo cum suspension order dated 11.8.2006 to him. Not considering the explanation submitted by the workman the Respondents have the passed order and conducted a domestic enquiry without giving proper opportunity to the Petitioner/workman, not furnishing relevant documents to him and without following the principles of natural justice. The Enquiry Officer conducted the enquiry and finally submitted his report holding that charge not proved. But, instead of dropping all further proceedings in the matter the Disciplinary Authority differed with the findings of the Enquiry Officer and issued show cause notice to him which is false and incorrect and no valid reasons assigned in the show cause notice with regard to the irregularities committed by the Petitioner. The Petitioner workman has submitted detailed explanation. The Petitioner appeared for personal hearing before the Disciplinary Authority. But, without considering his requests, the Respondent bank imposed major punishment of dismissal from service vide order dated 31.5.2007. The Petitioner workman preferred appeal to that order dated 31.5.2007 and the Appellate Authority also rejected the appeal without any valid reason. It is also contended that the Petitioner served in the bank for more than 20 years, but without any valid reasons, the Appellate Authority rejected his appeal. Since the date of his dismissal the workman is facing several financial problems. He is the sole bread earner of his family. He is a heart patient and suffered high sugar. Due to such diseases he is hospitalized and he is not in a position and reach the day to day medical expenses. On attaining the age of superannuation the could have retired from service on 31.7.2o015 and at the fog end of his service he has to perform his daughter's marriage. Unless the punishment of dismissal order dated 31.5.2007 passed by the Disciplinary Authority and also the order of Appellate Authority is set aside, the Petitioner would suffer irreparable loss. Lastly, the Learned Counsel for the Petitioner submitted that the Respondents' bank may be directed to reinstate the Petitioner into service and the order issued by the Respondents as

illegal and arbitrary and to set aside the same and consequently to direct the Respondents to reinstate the Petitioner into service duly granting all consequential benefits..

8. On the other hand the Learned Counsel appearing on behalf of the Respondents contended that while the Petitioner workman was working in Guntur, he has committed gross misconduct, for which he was placed under suspension on 23.3.2006. He was asked to submit explanation but as the explanation given by the Petitioner was not satisfactory he was issued with charge sheet dated 11.8.2006 with the following commissions and omissions:

"It is alleged that a 25-leaves cheque book bearing S.No.11576 to 11600 was entered in cheque book issue register and also in computer system on 15.3.2002 in the name of SB A/c.11983 to Shri Divi Srinivasa Rao. But the first cheque in the series bearing No.11576 dated 20.2.2006 of Rs.10,000/- drawn by Shri K. Koteswara Rao in his own favour first and endorsed later in favour of one Mr. Rajmohan which was received in clearing for payment on 27.2.2006 presented by AC College Extension Counter Branch of Syndicate Bank, Guntur. Due to difference in drawer's signature as well as insufficient funds in the account the cheque was returned unpaid to the presenting banker. From the above incident it is evident that Shri Koteswara Rao has come into possession of the cheque book unauthorizedly and also attempted to use it."

Subsequently an enquiry was conducted. The Petitioner workman was given ample opportunity to cross examine the management witnesses and he has fully participated in the enquiry proceeding. Lastly, the Enquiry Officer has submitted his report holding the charge was not proved. The Petitioner could not produce satisfactory defense for which the Disciplinary Authority has proposed punishment of dismissal from service vide order dated 31.5.2007. It is also agreed that the Petitioner was working in the public sector bank dealing with public money and the misconduct committed by the Petitioner is very grave as the same is involved with the money kept in the bank in trust. It is further argued that even though there is no financial loss by the act of the Petitioner, the management lost the confidence on the Petitioner. Therefore, the Respondents have rightly awarded the punishment of dismissal from service to the Petitioner. In such a circumstances, no lenient view is required to be taken, and with these averments, the Learned Counsel for the Respondents submitted that the action taken by the Respondents bank needs no interference.

9. Admittedly, the Petitioner has joined in the Respondent's bank as an Armed Guard from 7.1.1987 after retiring from Indian Armed services. He has worked in the Respondents' bank for a period of more than 20 years till the date of his dismissal from service. During the tenure of his service he has not committed any misconduct, not even in one occasion he was issued with charge sheet on the allegation of commission of any misconduct except the present one. The Enquiry was conducted in presence of the Petitioner and the Presenting Officer prosecuted the enquiry proceeding on behalf of the Respondents' management. The Petitioner workman fully participated in the enquiry. After completion of enquiry, the Enquiry Officer held the charges not proved. Thereafter report was placed before the Disciplinary Authority but the Disciplinary Authority differed with the findings of the Enquiry Officer and issued a show cause notice to the Petitioner, who also submitted his explanation stating the same facts that he is no way involved in commission of misconduct. But the Disciplinary Authority without considering any of the explanation, submitted by the Petitioner passed the order for dismissal of the Petitioner from service. The Disciplinary Authority while passing the orders have not assigned any reasons as to why such a capital punishment will be imposed on the Petitioner when the Petitioner has worked for more than 20 years in their Department without any stigma. Further more, the Enquiry initiated by the Respondents bank was concluded in favour of the Petitioner.

10. Further more, when the Petitioner made appeal before the Appellate Authority appeared there personally and after personal hearing of the Petitioner, the authority did not consider the case of the Petitioner and rejected the appeal without assigning any valid reason. The Disciplinary Authority as well as the Appellate Authority while passing the order of dismissal from service should consider the past antecedents of the Petitioner and also genuineness of the documents relied on by their management. Without considering any of the previous antecedents of the Petitioner and considering the genuineness of the documents such a capital punishment has been given which is unwarranted.

11. The Learned Counsel appearing on behalf of the Petitioner while arguing in support of the grievances of the Petitioner relied on a similar cases in WP No.16288 of 2004 decided on 29.4.2016; reported in 2016 (5) ALD 497 decided by the Hon'ble High Court of A.P., Hyderabad observed that in that case the writ Petitioner was dmismissed from service on certain irregularities. Aggrieved by the same, the above writ application was filed bfore the Hon'ble High Court of A.P., Hyderabad, wherein the Hon'ble Court clearly wrote that the Disciplinary Authority has not given reasonable opportunity to the Writ Petitioner therein and passed order with the observation that, "The cases in which the Labour Court/Industrial Tribunal exercises power Under Section 11-A of the Industrial Disputes Act, 1947 and finds that even though the enquiry held against the employee/workman is consistent with the rules of natural justice and/or certified standing orders, if any, but holds that the punishment was disproportionate to the misconduct found proved, then it will have the discretion not to award full back wags. However, if the Labour Court/Industrial Tribunal finds that the employee had foisted a false charge, then there will be ample justification for award of full back wages." Further the Hon'ble Court also observed that "let me consider the facts of the case on hand in the light of the above legal principle. The Petitioner was kept under suspension on 12.4.2003. The final order was passed on 31.8.2004. In normal course, the Petitioner attains the age of superannuation on 31.10.2004. The Petitioner would not have deprived of the legitimate salary and the retiral benefits if no disciplinary proceedings were initiated against him. Because of the suspension, the Petitioner was deprived of his legitimate salary with effect from 12.4.2003 to 31.8.2004. The Petitioner was also

deprived of the retiral benefits having served the Respondent Corporation for a period of more than 35 years. It is not brought to the notice of this Court that the Petitioner was subjected to any Departmental enquiry followed by imposing of any punishment in his entire service except the present one. A perusal of the record reveals that one R. Srinivasa Rao also faced the similar type of enquiry and was found guilty. Whereas the Respondents imposed punishment of reduction of one stage of pay for three years besides treating the period of suspension as suspension only and the period will not be counted for any purpose. This also clearly demonstrates the discrimination shown by the Respondents towards the Petitioner while imposing the punishment, even if the enquiry is sustainable. The Petitioner can not be penalised for the fault of the Respondents who framed a defective charge and forced the Petitioner to face the rigour of enquiry at the fag end of his service. It is a known fact that at the fag end of service, every employee may be shouldered with a responsibility to perform the marriages of his children. Due to stoppage of retiral benefits, the Petitioner might have faced lot of financial constraints and social problems to discharge his domestic responsibilities. The mental agony undergone by the Petitioner, while facing the enquiry, cannot be compensated in any manner whatsoever. Facing enquiry by an employee, would certainly, gives a scope to his colleagues and relatives to make comments on him. in such circumstances, granting retiral benefits to the Petitioner is only a solace and not a substitute for the mental agony and torture faced not only by him or his family members." The Learned Counsel for the Petitioner also relied on another decision of Hon'ble Supreme Court wherein their Lordships observed stating the background facts of the case in a nutshell are as follows: "Respondent-Conductor was commissioning as such in Bus No.F-16 on 15.9.1993 when the bus was intercepted by the checking staff. It was found that the Respondent had not issued tickets to 20 out of 136 passengers. The Appellant conducted domestic enquiry which found him guilty. Consequently, he was dismissed from service vide order dated 3.4.1995. The same was challenged by the Respondent before the Labour Court invoking Section 10(4-A) of the Industrial Disputes Act, 1947 (in short the 'Act'). The Labour Court held that the domestic enquiry was fair and proper on the basis of the memorandum filed by the Respondent conceding to the fairness of the domestic enquiry. However, the Labour Court set aside the order of dismissal and directed reinstatement of Respondent with full back wags, continuity of service and other consequential benefits. The basis for this order was non-checking of cash bag of the Respondent and non-examination of ticket less passengers. The order was challenged before the High Court. By order dated 21.10.2005, the learned Single Judge held that the order was correct so far as setting aside dismissal order is concerned, direction for reinstatement and continuity of service and consequential benefits. However, the direction relating to back wages was set aside. The writ appeal as noted above, was dismissed on the ground that the same was not maintainable." As per his contention in the case of Divisional Controller KSRTC (NWKSRTC) V. A.T. Mane Manu, the Apex Court observed that as rightly contended by the appellant, since fairness of the proceedings was conceded and the Respondent admitted that he had not issued tickets to 20 passengers, their non-examination is really of no consequence. From this the appeal is allowed with no costs. Lastly the Learned Counsel for the applicant also contended that when the Petitioner rendered more than 20 years of service with the Respondents' bank and since the date of his appointment on 7.1.1987 till the date of punishment i.e., on 31.5.2007 he has worked without any break and without any commission of misconduct how at the stage of his retirement, the Respondent bank imposed the major penalty of dismissal from service, it is quite illegal, arbitrary and unjust. In fact, the Enquiry Officer while going through the allegation of the Respondents bank demanded the genuineness and fairness of the documents so also the presence of the author of the documents, and with the above observation he held the charges not proved. But the Disciplinary Authority differed with the findings of the Enquiry Officer and passed the order of dismissal. The Disciplinary Authority has not assigned any valid reason while passing the order, such an order of the Disciplinary Authority is not sustainable in the eye of Law.

12. On consideration of the rival contentions of both the sides it is held that the order of the Disciplinary Authority appears to be unjust. As no valid reasons have been assigned by the Disciplinary Authority in his findings, the action taken by the Respondents' bank on the Petitioner/workman is not legal and valid therefore, it is liable to be set aside and the Petitioner is entitled to get relief of reinstatement into service.

Thus, Point Nos. I & II are answered accordingly.

ORDER

In view of the findings given in Point Nos. I & II, the action of the Respondents' bank in imposing the punishment of dismissal from service to Sri K. Koteswara Rao is neither legal nor justified and hence, it is set aside. The Petitioner is entitled to get reinstatement into service. Admittedly, the Petitioner has already attained the age of superannuation with effect from 31.7.2015. But had filed this case in the year 2010 after three years of passing the order of dismissal. He is only entitled to be reinstated into service and to get the retirement benefits along with 50% of back wages.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 30th day of July, 2018.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 25 सितम्बर, 2018

का. आ. 1452.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूको बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ सं. 6/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 25.09.2018 को प्राप्त हुआ था।

[सं. एल—12012/11/2010—आई आर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 25th September, 2018

S.O. 1452.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 6/2010) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court, Hyderabad* as shown in the Annexure, in the industrial dispute between the management of UCO *Bank,* and their workmen, received by the Central Government on 25.09.2018

[No. L-12012/11/2010 - IR(B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Sri Muralidhar Pradhan, Presiding Officer

Dated the 25th day of July, 2018

INDUSTRIAL DISPUTE No. 6/2010

Between:

Sri D. Venu Gopal Rao,
23-26-11, Sumanamavari Street,
Satyanarayana Puram,
Vijayawada – 520011. … Petitioner

AND

1. The Zonal Manager,
   UCO Bank, Zonal Office,
   8-2-624, Ground Floor,
   Road No.10, Banjara Hills,
   Hyderabad.

2. The Sr. Manager,
   UCO Bank, Satya Sai Complex,
   1st Floor, Vinnakotavari Chowk,
   Vijayawada – 520 001. …Respondents

Appearances:

For the Petitioner : Sri M. Gowri Shankar, Advocate

For the Respondent: M/s. G. Ananad Kumar, N. Sreeram & S. Srinivas, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L- 12012/11/2010-IR(B-II) dated 15.4.2010 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of UCO Bank and their workman. The reference is,

SCHEDULE

"Whether the action of the Management of UCO Bank, Vijayawada-I Town Branch in terminating the services of Shri D. Venu Gopal Rao w.e.f. 05.11.2009 is legal & justified? What relief the concerned workman is entitled to?"

The reference is numbered in this Tribunal as I.D. No. 6/2010 and notices were issued to the parties concerned.

2. The case stands posted for filing of claim statement and documents by the Petitioner.

3. Inspite of repeated calls, both the parties did not turn up. No steps are taken on their behalf. No amended claim statement is filed on behalf of the LRs of deceased Petitioner. The case is lingering since the year 2016 awaiting filing of amended claim statement. Even though several opportunities have already been given to the Petitioner/LRs, the LRs remained absent. Non-appearance of the Petitioners and non-filing of amended claim statement in time, clearly indicates that perhaps the parties have already settled the dispute and the Petitioners have no claim to raise. Hence, it is not desirable to linger the case to any further date. Thus, the case of the Petitioner (LRs) is closed and a 'No dispute' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 25th day of July, 2018.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली 25 सितम्बर, 2018

का. आ. 1453.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मुम्बई पोर्ट ट्रस्ट के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारो के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुम्बई के पंचाट (संदर्भ सं. 9/2016) को प्रकाशित करती है जो केन्द्रीय सरकार को 25.09.2018 को प्राप्त हुआ था।

[सं. एल–31011/08/2015–आई आर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 25th September, 2018

S.O. 1453.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 9/2016) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court No 2, Mumbai* as shown in the Annexure, in the industrial dispute between the management of *Mumbai Port Trust,* and their workmen, received by the Central Government on 25.09.2018.

[No. L-31011/08/2015 - IR(B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO .2, MUMBAI

PRESENT : M. V. Deshpande**,** Presiding Officer

REFERENCE NO. CGIT-2/9 of 2016

EMPLOYERS IN RELATION TO THE MANAGEMENT OF MUMBAI PORT TRUST

The Chairman,
Mumbai Port Trust,
Port House, 2nd Floor, S.V. Marg,
Ballard Estate, Mumbai – 400 001.

AND

THEIR WORKMEN

The Secretary,
Transport & Dock Workers' Union, Mumbai,
P.D' Mello Bhavan, P.D' Mello Road,
Carnac Bunder,
Mumbai – 400 038.

APPEARANCES:

FOR THE EMPLOYER : Mr. Umesh Nabar Advocate

FOR THE WORKMEN : Shri A. M. Koyande. Advocate

Mumbai, dated the 23rd August, 2018

AWARD

1. This is reference made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide Government of India, Ministry of Labour & Employment, New Delhi vide its order No. L-31011/08/2015 – IR (B-II) dated 15.02.2016. The terms of reference given in the schedule are as follows :

> *"Whether the demand of the Transport & Dock Workers' Union, Mumbai, on the management of Mumbai Port Trust for considering the absent period of Shri Dilip Laxman Sawant, the then Clerk-cum-Coupon Seller of Hamallage Cooperative Canteen, from 22.06.1992 to 30.09.1992 and 11.07.1994 to 31.12.1994 a period prior to the absorption of said canteen workman by the management of Mumbai Port Trust in the year 1995 as "EOL on medical ground" and thereby preponing the date of increment of the workman concerned to 1st October every year and re-fixation of pay is just and proper ? If so, what relief the workman concerned is entitled to ?"*

2. After the receipt of the reference, both the parties were served with the notices.

3. Read withdrawal pursis dated 23.8.18. The workman is present. He wants to withdraw the reference and therefore the reference is withdrawn and hence disposed off.

ORDER

Reference is withdrawn and hence disposed off.

Date: 23.08.2018

M.V. DESHPANDE, Presiding Officer

नई दिल्ली, 25 सितम्बर, 2018

का. आ. 1454.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मुम्बई पोर्ट ट्रस्ट के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारो के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुम्बई के पंचाट (संदर्भ सं. 18/2017) को प्रकाशित करती है जो केन्द्रीय सरकार को 25.09.2018 को प्राप्त हुआ था।

[सं. एल—31011/01/2017—आई आर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 25th September, 2018

S.O. 1454.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 18/2017) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court No 2,* Mumbai as shown in the Annexure, in the industrial dispute between the management of Mumbai Port Trust, and their workmen, received by the Central Government on 25.09.2018.

[No. L-31011/01/2017 - IR(B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT : M. V. Deshpande**,** Presiding Officer

REFERENCE NO. CGIT-2/18 of 2017

EMPLOYERS IN RELATION TO THE MANAGEMENT OF MUMBAI PORT TRUST

The Chairman,
Mumbai Port Trust,
Port Bhawan, S.V. Marg,
Mumbai – 400 001.

AND

THEIR WORKMEN

The General Secretary,
Mumbai Port Trust Mazdoor Sangh,
7, Pitha Street,
P. M. Road,
Mumbai – 400 001.

APPEARANCES:

FOR THE EMPLOYER : Mr. Umesh Nabar Advocate.

FOR THE WORKMEN : Absent

Mumbai, dated the 24th August, 2018

AWARD

1. This is reference made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide Government of India, Ministry of Labour & Employment, New Delhi vide its order No. L-31011/01/2017 – IR (B-II) dated 02.05.2017. The terms of reference given in the schedule are as follows :

> *"Whether the action of the management of Chairman Mumbai Port Trust, Mumbai in changing hours of work of watchman deployed at Wadala Yard Pantoon Bunder Yard and K Shed Cotton, Mumbai w.e.f. November, 2016 in alleged violation of Sec. 9A of the I.D. Act, 1947, is valid just and proper. If not, what relief these Watchmen are entitled to and from which date?"*

2. After the receipt of the reference, both the parties were served with the notices.

3. On going through the Roznama, it appears that since from 11.7.17 the union is absent therefore again notice was issued to the union. But even after service of notice the union remained absent and no statement of claim is filed.

4. Hence there is no statement of claim to substantiate the contention of the union in respect of the reference. For want of evidence therefore the reference is disposed off.

ORDER

Reference is disposed off for want of evidence.

Date: 24.08.2018

M.V. DESHPANDE, Presiding Officer

नई दिल्ली, 25 सितम्बर, 2018

का. आ. 1455.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक आफ महाराष्ट्र के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुम्बई के पंचाट (संदर्भ सं. 12/2018) को प्रकाशित करती है जो केन्द्रीय सरकार को 25.09.2018 को प्राप्त हुआ था।

[सं. एल—12011/02/2018—आई आर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 25th September, 2018

S.O. 1455.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 12/2018) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court No 2*, Mumbai as shown in the Annexure, in the industrial dispute between the management of Bank of Maharashtra, and their workmen, received by the Central Government on 25.09.2018.

[No. L-12011/02/2018 - IR(B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT : M. V. Deshpande**,** Presiding Officer

REFERENCE NO. CGIT-2/12 of 2018

EMPLOYERS IN RELATION TO THE MANAGEMENT OF BANK OF MAHARASHTRA

The Chairman & Managing Director,
Bank of Maharashtra,
Head Office, Lokmangal,
150, Shivaji Nagar,
Pune – 411 005.

AND

THEIR WORKMEN

The President,
Mahabank Navnirman Sena,
Yashoda Cooperative Housing Society,
Ranade Road, Exten. Dadar,
Mumbai – 400 028.

APPEARANCES:

FOR THE EMPLOYER : Shri M. B. Anchan,Advocate

FOR THE WORKMEN : In Person

Mumbai, the 20th August, 2018

AWARD

1. This is reference made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide Government of India, Ministry of Labour & Employment, New Delhi vide its order No. L-12011/02/2018 – IR (B-II) dated 08.03.2018. The terms of reference given in the schedule are as follows :

"Whether the demand of union Mahabank Navnirman Sena for appointment of Shri Chintamani Vaity to the post of Special Assistant at Nerul Branch w.e.f. 01.01.2012 is fair, legal and just?"

2. After the receipt of the reference, both the parties were served with the notices.

3. Read Pursis dated 20.8.2018. The workman is present. He wants to withdraw the reference.

4. In view of pursis, the reference is withdrawn and hence disposed off.

ORDER

Reference is withdrawn and hence disposed off.

Date: 20.08.2018

M.V. DESHPANDE, Presiding Officer

नई दिल्ली, 25 सितम्बर, 2018

का. आ. 1456.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब एंड सिंध बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, दिल्ली के पंचाट (संदर्भ सं. 8/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 25.09.2018 को प्राप्त हुआ था।

[सं. एल 12011/77/2014—आई आर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 25th September, 2018

S.O. 1456.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 8/2015) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court* No. 1, Delhi as shown in the Annexure, in the industrial dispute between the management of Punjab and Sind Bank, and their workmen, received by the Central Government on 25.09.2018.

[No. L-12011/77/2014 - IR(B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT No. 1, DWARKA COURTS COMPLEX : NEW DELHI.

ID No. 8/2015

Kishan Singh
s/o. lagte Shri Ratan Singh,
r/. H.N o.23, Village Barhana,
Tehsil & District Jhajjar ….Workman/Claimant

Versus

1. General Manager (HRD),
Punjab & Sind Bank,
21, Rajendra Place, New Delhi.

2. Sr. Manager, PF Department,
Punjab & Sind Bank,
Ashram Chowk, Sidhartha Enclave,
New Delhi. …Management/ Respondent

AWARD

In the present case, matter was referred to Central Government Industrial Tribunal, Chandigarh vide letter No. L-12011/77/2014/IR(B-II) dated 02.01.2015 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short the Act) for adjudication of an industrial dispute, terms of which are as under:-

> 'Whether the decision of the management of Punjab & Sind Bank with regard to turning down the option of pension in respect of Shri Kishan Singh s/o. late Ratan Singh, without serving a letter of demand which was mandatory on the part of management is just, fair and legal ? What relief the workmen concerned entitled to ?

2. Both parties were put to notice and the claimant Kishan Singh filed his statement of claim, with the averments that the workman being Ex-serviceman was working as peon cum chowkidar and he retired from Personal Banking Branch at Shalimar Bagh, Delhi on 30/11/2009, after rendering service of 27 years. In terms of settlement arrived with the Employees Union, the Management brought out the Scheme for grant of pension to those employees who could not opt for the same in earlier scheme of 1995 and a circular dated 1/9/2010 was brought out by the Management which was meant for serving as well as retired employees to opt for second pension scheme and such employees were required to refund bank's contribution with interest and an additional amount equivalent to 50 per cent of the said sum, on or before 29/11/2010. The workman opted for the same within stipulated time on 5th/7th October, 2010 and submitted his option to the Branch Manager of Shalimar Bagh (Personal Banking) Branch, Delhi and pension option form was forwarded vide letter dated 7/10/2010 by the Branch Manager to the Management. It is alleged that the working being not literate, was unaware of the amount to be deposited by him, in absence of any communication received from the Management. The workman then approached the Management through his letter dated 10/2/2011 but to no avail and then he sent a reminder letter dated 25/2/2011, to which the Management replied vide letter dated 25/3/2011, intimating him that since he failed to refund the Bank's contribution to Provident Fund with interest paid at the time of retirement alongwith 50 per cent of

the said amount within the stipulated period i.e. 29/11/2010 which was further extended upto 31/12/2010, his request for pension under the 2nd pension scheme can not be considered. The workman responded vide his letter dated 8/4/2011 that there was no intimation in respect of the amount to be deposited by him. Thereafter the workman filed RTI application dated 13/4/2011, asking the specific reason for denial of his pension apart from copy of letter sent to him, requiring him to deposit the amount alongwith mode & proof of delivery. Through reply of his RTI application, workman came to know that though he was required to deposit an amount of Rs.2,53,967/- but letter was not delivered to him due to incomplete, as father's name of the workman was not mentioned in the letter. There were number of persons in the village with identical name "Kishan Singh". The postal authorities, therefore, returned the letter "undelivered" with the remarks that nothing could be known from the name and complete address should be written. It is alleged that for want of complete address which was in the records of the Management, the legitimate right of the workman has been denied to him despite the fact that the workman had the resources much more than the required sum, in the form of FDR of Rs.3 lakh in the said bank branch Though he filed a writ petition before Hon'ble High but the same was withdrawn on 12/8/2013 and then he filed the dispute before the Conciliation Officer but the Management did not agree to the genuine right of the workman. Thus, the workman has prayed that Management be directed to pay him pension alongwith arrears in terms of the circular dated 1/9/2010 against adjustment of Rs.2,53,967/- which came to his knowledge after filing of the RTI application.

3. Management has resisted the claim of the Workman and filed written statement. It has been alleged that the present claim has been raised in a belated manner. The Management had sent him letter dated 20/10/2010 but he did not exercise his option and failed to return/deposit the amount in terms of the circular of the bank, within stipulated period so extended upto 31/12/2010. and as such, his request for pensionery benefits had been declined. It is stated that registered letter was sent to the workman but he did not exercise his option within the stipulated time. As such, he is stopped from claiming the benefits in terms of 2nd pension scheme. Prayer has been made for rejection of claim petition.

4. On the pleadings of the parties, following issues were framed on 1/9/2016 :-

i) Whether the workman is entitled for pensionery benefits, as alleged ?

ii) Relief.

5. The Claimant in support of his case examined himself as W.W.1 and tendered his affidavit Ex.WW1/A and relied on the documents filed EX.WW1/1 to Ex.WW1/11.

6. On the other hand, the Management in order to rebut the case of the claimant examined one Shri Manpreet Singh, Probationary Officer as MW1. He filed his affidavit Ex.MW1/A and relied on documents Ex.MW1/1 and Ex.MW1/2.

Issue No.1 and 2 :-

7. Both these issues are being taken up together for the purpose of discussion as they can be conveniently disposed of.

8. From the pleadings and evidence adduced on record, it is evident that the workman/claimant who retired from service as peon-cum-Chowkidar on 30/11/2009, was regular employee of the Management. Admittedly, a circular dated 1/9/2010 was issued by the Management Bank, seeking option of the serving and retired employees in respect of second pension scheme. It is also evident from the letter Ex.WW1/2 (dated 7/10/2010) that the workman/claimant had given option for availing pension under the 2nd Pension Scheme and the said letter was duly forwarded by the Branch Manager to the concerned Office at Sidhartha Enclave, New Delhi. Certain amount viz. bank's contribution towards Provident Fund with interest and an additional amount equivalent to 50 per cent of the said sum, was required to be deposited/refunded within extended stipulated period upto 31/12/2010, by all those officials who wanted to exercise their option for 2nd pension scheme. The plea of the workman that he did not get any demand letter from the Management, for which he also wrote a letter Ex.WW1/3 (dated 10/2/2011) to the Management. On the contrary, the Management has taken a plea that in fact a register letter dated 20-11-2010 (Ex.MW1/1) was sent to the claimant but he failed to refund/deposit the requisite amount of Rs.2,53,967/-.

9. To ascertain whether the claimant/workman in fact did not receive the aforesaid demand letter dated 20-11-2010 as claimed by him, as a result of which he was unable to refund the requisite sum to the Management, or whether the workman/claimant did not duly exercise the option despite receipt of aforesaid demand letter as alleged by the Management, it will be worthwhile to refer to the evidence adduced on record. It is the specific case of the claimant/workman in his pleadings and evidence adduced on record that virtually no demand letter was received by him as the Management had sent the letter with incomplete address viz. name of his father was not written on the letter though same was in the records of the Management and therefore, the same was returned by the postal authorities. Shri Manpreet Singh MW1 - the sole witness examined by the Management admitted in cross examination that personal file of the claimant containing details of his father's name and other dependents etc is maintained at their end, He also admitted that letter Ex.MW1/1 (viz. demand letter dated 20-11-2010) wherein father's name of gthe claimant was not mentioned, was not delivered to the claimant and it was returned "undelivered". He also admitted that the Management had not sent any communication to the claimant in respect of extension of time till 31/12/2010 but volunteered that circular was issued in that regard. **It is common knowledge that circulars issued by the govt./public authorities like Management Bank are circulated only to the serving officers/officials and not to the retired employees.** Thus, it is crystal clear that though the workman/claimant had given option to seek benefit of 2nd pension scheme vide his request

letter dated 7/10/2010, but he neither received the demand letter dated 20/10./2010 (Ex.MW1/1) from the Management Bank, which was returned undelivered, nor he received any communication regarding extension of time upto 31/12/2010. The claimant/workman has proved on record letter dated 10/2/2011 followed by another letter dated 25/2/2011 (Ex.WW1/3 colly.), whereby he requested the Management about the amount to be refunded by him. However, the Management Bank vide letter dated 25/3/2011 (Ex.WW1/4) had intimated him that since he failed to refund the Bank's contribution to Provident Fund with interest paid at the time of retirement alongwith 50 per cent of the said amount by 31/12/2010, his request for pension under the 2nd pension scheme can not be considered.

10. From the above discussion, it is amply clear that on account of extenuating circumstances the workman/claimant could not fulfill the requirements of deposit/refund of the requisite amount of Rs. 2,53,967/- for availing the benefits of 2nd Pension Scheme as no demand letter whatsoever was received by him from the Management – may be due to wrong address or due to not mentioning of his father's name. For all that, it will be improper to wholly blame the workman./claimant who was simply working as a chowkidar and to exonerate the Management who did not take any follow up action after the demand letter (Ex.MW1/1) was received back "undelivered". To my mind, the action of the Management Bank in declining the request of the workman vide its reply dated 25/3/2010 was unjust and improper, inasmuch as the Scheme viz 2nd Pension Scheme was for the benefit of retired employees and a liberal approach was called for from the Management, particularly when no follow up action was taken by the Management after the demand letter issued by it was received back "undelivered". In these circumstances, this Tribunal is of the considered view that decision of the Management Bank for turning down the option of pension in respect of the workman Kishan Singh was unjust and illegal, since the Management Bank failed to communicate the amount which was to be deposited by the workman. It is held accordingly.

Relief :

11. Having regard to the peculiar facts and circumstances of the case as discussed above, this Tribunal is of the opinion that ends of justice will meet if the workman is granted time to deposit a sum of Rs. 2,53,967 as per demand letter dated 20/11/2010, within four weeks from publication of this Award. The Management Bank shall inform to the workman, within one month from the date of deposit of demanded sum, regarding further amount, if any, required to be deposited him as well as of other formalities if any to be completed by him and thereafter to process the matter for payment of pension and its arrears to the workman, within next three months. The award is passed accordingly.

Date : 12.09.2018

AVTAR CHAND DOGRA, Presiding Officer

नई दिल्ली, 25 सितम्बर, 2018

का. आ. 1457.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (संदर्भ सं. 1/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 25.09.2018 को प्राप्त हुआ था।

[सं. एल–39025/01/2017–आई आर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 25th September, 2018

S.O. 1457.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 1/2012) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court* Hyderabad as shown in the Annexure, in the industrial dispute between the management of *Canara Bank,* and their workmen, received by the Central Government on 25.09.2018.

[No. L-39025/01/2017 - IR(B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR-COURT AT HYDERABAD

Present: Sri Muralidhar Pradhan, Presiding Officer

Dated the 31st day of July, 2018

INDUSTRIAL DISPUTE L.C.No. 1/2012

Between:

Sri V. Mallaiah,
S/oSaidulu,
R/o Plot No.156, Sri Keerthi Nilayam, Plot No.1, Road No.1,
Sri Sai Nagar Colony, Boduppal,
Hyderabad – 500 092. … Petitioner

AND

1. The Chairman,
Canara Bank,
Head Office, Bangalore.

2. The Deputy General Manager,
Canara Bank, Head Office,
Personnel Wing, I.R. Section,
Naveen Complex, Bangalore.

3. The General Manager,
Canara Bank, Circle Office,
Hyderabad. … Respondents

Appearances:

For the Petitioner : M/s. G. Vidya Sagar, K. Udaya Sri, P. Sudheer Rao & D. Sunil Kumar, Advocates

For the Respondent: M/s. Vamaraju Sri Krishnudu, K. Babu Rao, S. Soumitri Sarma, P. Srinivas Reddy, M. Srikanth, B. Santhosh Kumar & B. Vaibhav, Advocates

AWARD

The above noted case is taken under Sec.2 A (2) of the I.D. Act, 1947 between the management of Canara Bank and their workman Sri V. Mallaiah, and numbered in this Court as L.C. No. 1/2012 and notices were issued to the parties concerned.

2. Sri V. Mallaiah raised dispute against the order of compulsory retirement vide order dated 31.7.2009 by the Respondents. He prayed this Court to set aside the order dated 31.7.2009 and direct the Respondents to reinstate the Petitioner into service with full back wages and all other attendant benefits.

3. Respondents also filed counter.

4. The Petitioner filed a memo stating that a circular No. 265/2018 was issued by the Respondents' bank, and in view of the above circular he may be permitted to withdraw the present case, for getting pensionary benefits. Copy served to the respondents. Thus, the memo filed by the Petitioner to withdraw the dispute is accepted. The case is disposed of accordingly. Hence, no dispute Award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, and corrected by me on this the 31st day of July, 2018.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 25 सितम्बर, 2018

का. आ.1458.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (संदर्भ सं. 52/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 25.09.2018 को प्राप्त हुआ था।

[सं. एल–39025/01/2017–आई आर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 25th September, 2018

S.O. 1458.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 52/2010) of the *Cent.Govt.Indus.Tribunal-cum-Labour* Court No 2, Hyderabad as shown in the Annexure, in the industrial dispute between the management of *Canara Bank,* and their workmen, received by the Central Government on 25.09.2018.

[No. L-39025/01/2017 - IR(B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Sri Muralidhar Pradhan , Presiding Officer

Dated the 23rd day of July, 2018

INDUSTRIAL DISPUTE L.C.No. 52/2010

Between:

Smt. G. Lakshmamma,
W/o G. Malsoor,
R/o H.No. 2-1-86, Mutyalammma Bazar,
Krishna Talkies Road, Suryapet,
Nalgonda Dist. … Petitioner

AND

1. The Deputy General Manager,
   Canara bank, Circle Office,
   # 3-5-879, Ruby House,
   Himayatnagar, Hyderabad.

2. The Branch Manager,
   Canara Bank, Suryapet Branch,
   Suryapet, Nalgonda District. Respondents

Appearances:

For the Petitioner : M/s. P. Raveender Reddy & M. Mallikarjun, Advocates

For the Respondent: M/s. Vamaraju Sri Krishnudu, K. Babu Rao, S. Soumitri Sarma, P. Srinivas Reddy, M. Srikanth & B. Santhosh Kumar, Advocates

AWARD

Smt. G. Lakshmamma, who worked as PTE (who will be referred as workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents Canara Bank seeking for declaring the compulsory retirement order dated 21.10.2009 issued by the Respondent No.1 as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. **The averments made in the petition in brief are as follows**:

The Petitioner submits that she was working as PTE since 1996 at Respondent No.2 branch and also was performing her duties to the utmost satisfaction of her superiors. While the matters stood thus, on 2.3.2009 the Respondent No.1's office issued a charge memo vide ref. No.HYCHRM1104E.113 (i)2009 for non performance of duties, non submission of leave applications and other allegations on her part and also misbehaviour to the colleague employees. The applicant submitted that the allegations mentioned in the charge memo is false and fabricated and one of the allegation was that the Petitioner works in the office hours in drunken condition. It is further submitted that as per the employment the Petitioner had to perform the duties for 19 hours per week, but the Respondent No.2 branch was saying that the Petitioner was working only two hours per a day. It is submitted that Respondent No.2 Branch informed to Respondent No.1 that the Petitioner attended the office on 31.10.2008 in a drunken state and argued with the officer and Branch Manager with objectionable comments pointing her index finger at the Branch Manager in front of the customers. It is also submitted that the Petitioner gave a reply to Respondent No.1's charge. After receiving the reply from the Petitioner the Disciplinary Authority/Investigating Officer conducted an enquiry on 21.9.2009 at Circle office, Hyderabad and forced the Petitioner by the authorities to plead guilty of the charges. It is further submitted that the Investigating Officer examined other witnesses, and the Petitioner was found guilty of the charges and Respondent No.1 office called the Petitioner on 21.10.2009 at 1 PM. The applicant attended the Circle Office as per their letter, where she was asked by Respondent No.1 authority on the charges. It is further submitted that the Enquiry Officer found not guilty for the allegations of her drunken state, but the Enquiry Officer found guilty for other allegations mentioned in the charge memo. The Petitioner submitted that except the then Branch Manager, no other witnesses deposed against the Petitioner. The Petitioner submitted that out of the allegations, one of the allegations was that the Petitioner showed her finger to the Manager is false and fabricated. The Petitioner also submitted that on 31.10.2008 when she attended the office at 9 AM one person was doing duties in her place, the Petitioner had questioned the Manager for appointment of another person working in her place; then except that the Petitioner has never misbehaved the Manager or the staffs at any time. The Petitioner further submitted that on 21.10.2009 Respondent No.1 authorities confirmed the charges against the Petitioner and the Petitioner was called for a personal hearing before the Disciplinary Authority who agreed with the findings of the Enquiry Officer and holding the charge sheeted employee guilty of the charges and warded the punishment of "Compulsory Retirement" as envisaged under Chapter No.XI Regulation 4 (C) of Canara Bank Service Code. The Petitioner submitted that the punishment awarded to her is against the principles of natural justice, equity and good conscience. The Petitioner further submitted that, finding no other alternative remedy except to approach this court under 2A(2) of the Industrial Disputes Act, 1947 for necessary relief, she has filed the present application with the relief mentioned above. The Petitioner also submitted that she is the only earning member of her family. Therefore, it has become very difficult to maintain her livelihood, and inspite of her best efforts she could not be employed elsewhere. Therefore, the Petitioner filed this application claiming the relief mentioned above.

3. Both the Respondents jointly filed counter denying the averments made in the petition, with the averments in brief which runs as follows:

The Respondents in their counter submitted that this Tribunal has no jurisdiction to entertain the petition filed by the Petitioner. The Petitioner has approached this Tribunal without exhausting the remedy available to her by way of Departmental appeal as available under Regulation 20 of Canara Bank service code. The Petitioner had to exhaust remedy available to her by approaching the Appellate Authority, if she had any grievance in respect of the punishment awarded to her. But the reason best known to her why she has directly approached this court. The alleged dispute raised by the Petitioner is not within the purview of the Industrial Disputes Act, 1947 and the same is against the objects of the Act. The Petitioner was awarded the punishment of compulsory retirement from service of the bank after conducting due enquiry in her presence and after giving ample opportunity to her to contest the case and after finding her guilty of the charges of misbehaviour with the superiors and other staffs and non-performance of duties and also frequent unauthorized absence. There is no unfair labour practice on the part of the bank to interfere with the decision taken by the bank. The Petitioner was not wrongfully dismissed from service by the bank and before taking action, the bank has followed the principles of natural justice and after giving ample opportunity to the Petitioner and after conducting domestic enquiry, considering the gravity of the charges and the evidence available on record and also after hearing the Petitioner personally with regard to punishment, the order of compulsory retirement was passed. During personal hearing before the Disciplinary Authority the Petitioner has in fact admitted her guilty and said that due to health problem she behaved in such a manner earlier and also stated that she was suffering from high BP problem. It is also stated that in all the earlier communications made by the bank to the Petitioner during the period from 1999 to 2005 with regard to the behaviour and attitude of the Petitioner in discharging her duties were explained to the Petitioner by her representative (defence representative) and also the steno of the section in vernacular and she understood the contents of the same and admitted the mistakes committed by her. From the letter of the Petitioner and from earlier communications it is evident that the Petitioner has been repeating her mistake once and again inspite of giving several opportunities to the enquiry report to change her behaviour and attitude. The present incident basing on which the enquiry was conducted by the bank is not only one incident and there were several number of similar incidents taken place frequently form time to time, which was supported by the documentary evidence and borne out by the record and they are admitted facts. The Petitioner has not realized from her earlier mistakes and further not changed her behaviour and attitude inspite of giving various warning letters and also inspite of counselling her. The Respondents submitted that there is no illegality and irregularity on the part of the bank in passing the impugned order and With these

averments, the Respondents submitted that , after conducting due enquiry adequate punishment has been given to the Petitioner which needs no interference.

4. In view of the submission made by the Learned Counsel for the Petitioner not to challenge the legality and validity of the domestic enquiry conducted by the Respondents management, the domestic enquiry was held as legal and *valid* vide order dated 19.9.2011.

5. **In view of the averments made above, the points that arise for determination are**:

I. Whether the action of the 1st Respondent in issuing order of 'Compulsory Retirement' dated 21.10.2009 against the Petitioner Smt. G. Lakshmamma, PTE is legal and justified?

II. If not, to what relief the Petitioner is entitled for?

6. I have already heard arguments from both the sides.

7. The Learned Counsel appearing on behalf of the Petitioner contended that the Petitioner was working as a PTE since 1996 in the office of Respondent No.2 and also was performing her duties to the utmost satisfaction of her superiors. While the matters stood thus, on 2.3.2009 the Respondent No.1 office issued one charge memo to the Petitioner for non performance of her duties, non submission of leave applications and other allegations on her part and also misbehaviour to the colleague employees. Pursuant to the show cause notice the Petitioner submitted her explanation stating that the allegation made in the charge memo is false and fabricated. There was an allegation that the Petitioner was working in the office hours in drunken condition. It is also contended that the Petitioner had to perform her duties for 19 hours per week but the Respondent No.2 branch was saying that the Petitioner was working only two hours per a day. The Respondent No.2 Branch informed Respondent No.1 that the Petitioner attended the office on 31.10.2008 in a drunken state and argued with the officer and Branch Manager with objectionable comments pointing her index finger at the Branch Manager in front of the customers. The Petitioner submitted her reply to the charges made by Respondent No.1. On receipt of the explanation, one domestic enquiry was conducted. The Petitioner fully participated in the enquiry. The Petitioner was forced by the authorities to plead guilty of the charges. In the enquiry the Petitioner was found guilty of the charges, but the allegation of taking alcohol in office hours was not proved against the Petitioner. After enquiry the Petitioner was called to the office of the Respondent No.1 for personal hearing. The Learned Counsel for the Petitioner also contended that during the course of the enquiry, except the then Branch Manager, no other witness deposed against the Petitioner. But basing on the sole testimony of the Branch manager she was found guilty of the charges. The Learned Counsel also contended that the Petitioner never misbehaved, the Branch Manager, pointing her index finger, and such allegation is false and fabricated. On 31.10.2008 when she attended the office at 9 AM one person was doing duties in her place. Thereafter the Petitioner had questioned the Manager for appointment of another person working in her place; except that the Petitioner has never misbehaved either the Manager or the staff at any time. It is also contended that even though the Petitioner appeared before the Disciplinary Authority for a personal hearing, the Disciplinary Authority did not listen to her and agreed with the findings of the Enquiry Officer, holding the charges levelled against the Petitioner are proved and passed order for "Compulsory Retirement" of the Petitioner. The Learned Counsel also contended that the punishment awarded to the Petitioner is against the principles of natural justice, equity and good conscience. After the order of compulsory retirement the Petitioner could not find any alternative remedy except to approach this court under 2A(2) of the Industrial Disputes Act, 1947 for necessary relief. The Learned Counsel for the Petitioner further contended that she is the only earning member of her family and it has become very difficult on her part to maintain her livelihood, but inspite of her best efforts she could not be employed elsewhere and with the above submission, the Learned Counsel for the Petitioner submitted to declare the compulsory retirement order dated 21.10.2009 issued by Respondent No.1 as illegal, arbitrary and to set aside the same, consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits.

8. On the other hand the Learned Counsel appearing on behalf of the Respondents submitted that the present petition filed by the Petitioner is not maintainable. The Petitioner has approached this Tribunal without exhausting the remedy available to her by way of Departmental appeal as available under Regulation 20 of Canara Bank service code. If she had any grievance in respect of the punishment awarded to her, she could have moved to the Appellate Authority first. But without preferring any appeal before the Appellate Authority, the Petitioner has directly approached this court. The alleged dispute raised by the Petitioner is not within the purview of the Industrial Disputes Act, 1947 and the same is against the objects of the Act. He also contended that the Petitioner was awarded the punishment of compulsory retirement from service of the bank after conducting due enquiry in her presence and after giving ample opportunity to her to contest the case and after finding her guilty of the charges of misbehaviour to the superiors, and other staffs and non-performance of duties and also frequent unauthorized absence. There is no unfair labour practice on the part of the bank to interfere with the decision taken by the bank. The bank has taken action rightly against the Petitioner following the principles of natural justice and providing ample opportunity to the Petitioner after conducting domestic enquiry, considering the gravity of the charges and the evidence available on record and after hearing the Petitioner personally with regard to punishment, the order of compulsory retirement was passed. He further contended that during the course of personal hearing the Petitioner herself admitted her guilty stating that due to her health problem she behaved in such a manner earlier and also stated that she was suffering from high BP problem. It is also contended that all the earlier communications made by the bank to the Petitioner during the period from 1999 to 2005 with regard to the behaviour and

attitude of the Petitioner in discharging her duties were explained to the Petitioner by her representative (defence representative) and also the steno of the section in vernacular and she understood the contents of the same and admitted the mistakes committed by her. From the letter of the Petitioner and earlier communications it is evident that the Petitioner has been repeating her mistake once and again inspite of giving several opportunities to the enquiry report to change her behaviour and attitude. The present incident basing on which the enquiry was conducted by the bank is not the only incident and there were several number of similar incidents taken place frequently from time to time, which was supported by the documentary evidence and borne out from the record and they are admitted facts. The Petitioner has not realized from her earlier mistakes and further not changed her behaviour and attitude inspite of giving various warning letters and also inspite of counselling her. The Learned Counsel for the Respondents contended that there is no illegality and irregularity on the part of the bank in passing the impugned order. With the above submissions, it is submitted by the Learned Counsel for the Respondent that the punishment awarded by the Respondents' bank is legal and valid and it needs no interference.

9. Admittedly in this case, one domestic enquiry has been conducted. The Petitioner has fully participated in the domestic enquiry. Though the Petitioner challenged the validity of the domestic enquiry before this Tribunal, but at the time of call for heirs, neither the Petitioner nor her representative challenged the same. Therefore, this Tribunal was of the opinion that the domestic enquiry conducted by the Respondents' management is legal and valid. There is an allegation of misbehaviour against the Petitioner towards her superiors and other employees of the bank, in presence of the customers, there is similar type of allegations also made against the Petitioner prior to such incident. The Petitioner simply stated that the allegations are false and fabricated. Even though the Petitioner was given opportunity to put forth her grievance before the Enquiry Officer, she has not adduced any evidence challenging the allegations of the Respondents. There is allegation of unauthorized absence against the Petitioner. But she has not adduced any evidence to disprove the allegation made against her, either before the Enquiry Officer or before the Disciplinary Authority. In absence of any cogent evidence, the Enquiry Officer has submitted his report holding the charges as proved. The Learned Counsel for the Petitioner contended that the Petitioner is the sole bread earner of her family and after the punishment of compulsory retirement she is leading a very miserable life. She is unable to provide bread and butter to her children. It is submitted to set aside the order passed by the Respondents' bank and to reinstate the Petitioner into service. On the other hand, the Learned Counsel for the Respondents submitted that when the Petitioner was found guilty in the domestic enquiry, and she herself admitted her guilt, being a sweeper of the bank did not attend the bank regularly, used to misbehave the superiors, officers and also other staffs in presence of the customers, no leniency is to be taken. The Respondents' bank has rightly passed the order of compulsory retirement. In fact, the bank is a disciplined institution. If the sweeper of the bank will be found absent unauthorizedly and being questioned by the superiors, if she would misbehaves the authorities, the institution can not run smoothly. In such a circumstances, it is noticed that the authority has rightly passed the order of compulsory retirement on the Petitioner.

10. On consideration of rival contentions of both the parties, this Tribunal is of the opinion that when the domestic enquiry has not been challenged before this Tribunal, and it was held legal and valid, and no satisfactory evidence has been adduced from the side of the Petitioner to disprove the allegation made against her, the Respondents' bank has rightly passed the order and it needs no interference.

Thus, Point No.I is answered negatively against the Petitioner.

11. **Point No. II** :In view of the findings given in Point No.I, the Petitioner is not entitled to get any relief as prayed for and the claim is liable to be dismissed. Hence, the order.

ORDER

The action of the 1st Respondent in issuing order of 'Compulsory Retirement' dated 21.10.2009 against the Petitioner Smt. G. Lakshmamma, PTE is legal and justified. The Petitioner is not entitled to get any relief as prayed for. Hence, the petition is dismissed.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her and corrected by me on this the 23rd day of July, 2018.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 27 सितम्बर, 2018

का. आ. 1459.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बर्न स्टैंडर्ड कंपनी लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल के पंचाट (संदर्भ सं. 09/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 27.09.2018 को प्राप्त हुआ था।

[सं. एल–41011/66/2013–आई आर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 27th September, 2018

S.O. 1459.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 09/2013) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the management of M/s. Burn Standard Co. Ltd. and their workmen, received by the Central Government on 27.09.2018.

[No. L-41011/66/2013 - IR(B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT : Shri Pramod Kumar Mishra, Presiding Officer

REFERENCE No. 09 OF 2013

PARTIES : The management of M/s. Burn Standard Co. Ltd. (Principal Employer) and The management of M/s. Tanu Traders

v/s

Their 11 workers

REPRESENTATIVES :

For the Management	:	Shri P. K. Das, Learned Advocate (Principal Employer)
		Shri Budhan Keshri, Learned Advocate
For the Union (Workmen)	:	Shri Sayantan Mukherjee, Learned Advocate
INDUSTRY : RAIL		STATE : WEST BENGAL
		Dated : 10.09.2018

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour *vide* its letter No. L-41011/66/2013–IR(B-I) dated 23.07.2013 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of M/s. Tanu Traders and the Principal Employer M/s. Burn Standard Co. Ltd. which resulted in superannuation of 11 workers due to attaining the age of 58 years is legal and justified? To what relief the workmen concerned are entitled? "

1. Having received the Order No. L-41011/66/2013–IR(B-I) dated 23.07.2013 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. 09 of 2013 was registered on 08.08.2013. Accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned, directing them to appear in the court, on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. Both the parties appeared in the Tribunal, through their representative.

2. Case called out Shri P. K. Das, learned advocate was present on behalf of the management of the Principal Employer i.e. M/s. Burn Standard Co. Limited. Other parties are absent.

3. On perusal of the case record I find that the union appeared only thrice on 31.03.2015, 27.05.2015 and 03.02.2016 through their authorized advocate. But in spite of giving several opportunities union has not filed their written statement. Registered notices are issued on 20.08.2013 and 20.01.2014 but neither party has filed their written statement so far. It

seems that the union is not at all interested to proceed with the case further. Hence the reference is closed and accordingly a 'No Dispute Award' is hereby passed.

ORDER

Let an "Award" be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 27 सितम्बर, 2018

का. आ. 1460.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मध्य रेलवे प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2 मुंबई के पंचाट (संदर्भ सं. 63/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 27.09.2018 को प्राप्त हुआ था।

[सं. एल—41012/119/2007—आई आर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 27th September, 2018

S.O. 1460.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 63/2007) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, No. 2 Mumbai as shown in the Annexure, in the industrial dispute between the management of Central Railway and their workmen, received by the Central Government on 27.09.2018.

[No. L-41012/119/2007 - IR(B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI

PRESENT : M. V. Deshpande**,** Presiding Officer

REFERENCE NO. CGIT-2/ 63 of 2007

EMPLOYERS IN RELATION TO THE MANAGEMENT OF CENTRAL RAILWAY

The Divisional Railway Manager,
Central Railway,
Mumbai Division,
Mumbai Central,
Mumbai – 400 001.

AND

THEIR WORKMEN

Shri.S. D. Eklahare,
201, Mangal Murti Apartment,
Near Satyam General Hospital,
Rambaug Lane No.4,
Kalyan [West],
Dist. Thane.

APPEARANCES:

FOR THE EMPLOYER : Ms. Pooja Kulkarni Advocate

FOR THE WORKMEN : Mr. M.B. Anchan Advocate

AWARD

Mumbai, the 29th August, 2018

1. This is reference made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 *vide* Government of India, Ministry of Labour and Employment, New Delhi *vid*e its order No. L-41012/119/2007 – IR (B-I) dated 13.11.2007. The terms of reference given in the schedule are as follows :

"Whether the action of the management of Central Railway Administration, Mumbai by compulsory retiring Shri S.D. Eklahare from the services of Railway and not paying the correct subsistence allowance to him, is justified ? If not, to what relief the workman Shri Eklahare is entitled ?"

2. After the receipt of the reference, both the parties were served with the notices. They appeared through their respective representatives.

3. The concerned workman has filed statement of claim Ex.5. According to the second party workman, he was working as Sr. Typist in Operating Dept. He was served with the charge sheet for alleged misconduct that he grossly misbehaved with Shri V.V. Bobhate, DOM [COG], Mumbai Division on 28.6.2000 by actively associating with Mr. G.C. Dutta and Ors who abused Mr. Bobhate in a vulgar language and threatened to kill him and that he made alterations in the attendance muster with a view to cover up his coming to the office late on 26th, 27th & 28th June 2000 and by his above acts of omission & commission he failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming railway servant and thereby violated the provisions of Rule No. 3.1 (i), 3.1 (ii), 3.1 (iii) of Railway Servants Discipline & Appeal Rules 1968.

4. According to the concerned workman, the first party has taken the law in their hands with intention to punish the office bearers of Rail Kamgar Sena by involving him without any basis and evidence and charge memorandum was issued based on no evidence. The action of the first party is in violation of rule 13 of Discipline & Appeal Rules 1968 and as such the first party failed to follow the procedure to establish the charges according to the procedure established by law.

5. It is also a case of the concerned workman that the first party failed to observe the principles of natural justice. He was kept under prolonged suspension from 28.6.2000. His suspension was not revoked inspite of sending several letters and reminders for revocation to the termination and was compulsorily retired from the service w.e.f. 19.1.2005 in violation of all the rules in existence.

6. It is also a case of the concerned workman that enquiry was completed without allowing defence witness. After receiving Enquiry Officer's report, he submitted representation on 29.5.01 and after 5 months of his representation fresh enquiry was ordered. His subsistence allowance has not been enhanced and as such the first party failed to consider the grounds for major penalty. As such the enquiry is bad in law. The findings are perverse and therefore the enquiry is liable to set aside.

7. The first party management resisted claim by filing written statement Ex.6. It is contended that the concerned workman was suspended as per rules applicable. He was paid subsistence allowance as per rules applicable to him. Departmental enquiry was conducted against him in accordance with the principles of natural justice. The E.O. after going through the material on record found the workman guilty of charges leveled against him. Accordingly, EO submitted his report and findings to disciplinary authority. Disciplinary authority in accordance with the principles of natural justice forwarded the said report and findings to concerned workman for his comments. Workman in his comments raised certain technical objections in respect of enquiry proceedings. Disciplinary authority after going through the objections raised by the workman and after going through the enquiry proceedings noticed, certain procedural irregularities and therefore ordered fresh enquiry. As such the reopening of the enquiry was preferential within the jurisdiction and powers vested in the disciplinary authority.

8. It is then contention of the first party that the workman after reopening the departmental enquiry was wholly un-cooperative. But then reopened departmental enquiry was also held in accordance with principles of natural justice. E.O. after going through the material on record found workman guilty of the charges leveled against him and accordingly submitted his report & findings to the disciplinary authority. The copy of the report & findings was furnished to the workman. His comments were called upon. The workman submitted his comments. Disciplinary authority after going through the material on record and after carefully considering the comments of the workman concurred with the findings of the guilt recorded by the E.O. Misconduct committed by the workman was duly proved. Disciplinary authority awarded punishment of compulsory retirement upon the workman.

9. It is also a case of the first party that the workman has committed serious misconduct of abusing his superior. The same is proved in the departmental enquiry. The action of the management is as per the rules & regulations applicable to the workman. The workman was accorded fair & proper opportunity to defend himself. The findings of the E.O. are based on evidence. The first party has thus sought the dismissal of reference.

10. The concerned workman by filing rejoinder Ex.7 reiterated that the matter of criminal misconduct is not coming under the jurisdiction of DAR proceedings conducted by the Railway administration. The allegations leveled against him comes under the criminal offence and the criminal court is competent to decide this matter.

11. Following issues are framed on 17.11.2009. I reproduce the issues along with my findings thereon for the reasons to follow:

Sr. No.	Issues	Findings
1	Is inquiry fair and proper ?	Yes
2.	Is finding perverse ?	No

3.	Is punishment proportionate ?	Yes
4.	Is second party entitled for relief sought ?	No
5.	What order ?	As per final order

Reasons

Issue No. 1 & 2.

12. It is well settled that if the service of the employee came to be terminated after proper domestic enquiry held in accordance with the rules of natural justice and the conclusions reached at the enquiry are not perverse, the Industrial Tribunal is not entitled to consider the propriety or correctness of the said conclusion. But at the same time mere form of the enquiry would not satisfy the requirements of industrial law and would protect the disciplinary action taken by the employer from challenge. The enquiry cannot be said to have been properly held unless,

(a) employee proceeded against has been informed clearly of the charges leveled against him.

(b) witnesses are examined ordinarily in presence of the employee in respect of charges.

(c) employee is given a fair opportunity to cross examine the witnesses.

(d) he is given fair opportunity to examine witnesses including himself in his defence.

(e) E.O. records findings with reasons for the same in his report.

Now it is to be seen whether in the present case these requirements are complied or not ?

13. From the evidence on record, it appears that copy of imputation of misconduct, list of documents relied upon and the list of witness on the basis of which charge has to be established were supplied to the concerned workman. The copy of the charge sheet dt. 17.7.2000 was given to the concerned workman. After denial of the charges by the workman it was decided to hold enquiry as per the rules & regulations. Shri G.S. Panfer XEN [Spl. Work] was appointed as E.O. On the request of the employee, Shri D.S. Koparkar was appointed as Defence Representative.

14. It is then matter of record that the workman did not appear and therefore the E.O. concluded the enquiry ex-parte. E.O. held workman guilty of charges leveled against him. The copy of the report & findings were supplied to the workman. Accordingly, the workman submitted his representation against the report & findings of the E.O. However, after considering the evidence on record and representation of the workman the disciplinary authority decided to remit the matter for fresh enquiry and then Shri Rajesh Patil was appointed as E.O. It was decided to change the E.O. and Shri Mahendra Birhade was appointed as E.O. The departmental enquiry was conducted by Shri Mahendra Birhade.

15. At this stage, it is to be seen that the concerned workman had filed original application No. 361 / 2002 before Central Administrative Tribunal challenging the action of earlier disciplinary authority to remit the case for fresh enquiry. The said petition was dismissed by judgment & order dt. 17.9.2005. In the said petition, the workman had sought relief of restraining the disciplinary authority from re-opening the enquiry and further sought relief of enhancement in subsistence allowance from 50% to 75% along with H.R.A. in accordance with rules without any deduction & reduction. However, by the said judgment & order tribunal dismissed the petition after holding that the disciplinary authority has acted within his rights and as per the rules and has further recorded reasons for re-opening the departmental enquiry and as such there is no infirmity in the action of the disciplinary authority for re-opening the departmental enquiry. Tribunal has further held that non-appearance on the dates of hearing show the apathetic attitude of the workman and therefore no case is made out before tribunal. Thus, there is already a judicial finding about the fairness of departmental enquiry in view of judgment and order of Central Administrative Tribunal. The said judgment and order of Central Administrative Tribunal has not been set aside by the higher court and hence the same has attained finality.

16. So far as fairness of enquiry is concerned, as a matter of fact, it has come on record that all the documents relied by the management were supplied to the workman. The concerned workman has been clearly informed of the charges leveled against him and all the relevant witnesses were examined during the enquiry. The opportunity of cross-examination of the said witnesses was also provided to the workman. As desired by the workman, he was given opportunity to produce his defence witnesses. Accordingly, defence witnesses S/Shri Arun Manore, H.V. Mhatre, S.K. Vaigaonkar, T.V. Suman, C.K. Yadav, V.A. Jamlankar were examined by the concerned workman. That would show that full and fair opportunity has been granted to the workman and the enquiry has been conducted by following due process of law and also the principles of natural justice.

17. On going through the cross examination of the concerned workman, he has even admitted in his cross examination that he has received the charge sheet on 17.7.2000. He had replied the charge sheet. Defence Representative was engaged as per his choice. He was served with the copies of all the documents relied during the departmental enquiry. He has examined defence witnesses in the departmental enquiry. He was allowed to cross examine all the management witnesses. He has given his written submission on the enquiry report. He has participated in the enquiry proceedings. Admittedly, he was given full opportunity to defend himself after re-opening of the enquiry. His glaring admission

shows that E.O. has passed the order after considering all the evidence and facts on record. Then personal hearing was given to him by the Appellate Authority. So as per his admission, report of Enquiry Officer is based on material on record. All these admissions given by the concerned workman in his cross examination are sufficient to hold that the enquiry was fair & proper and that findings of E.O. are based on evidence or the material on record.

18. In respect of correctness of subsistence allowance, it will have to be said that the workman filed 2nd O.A. No. 418 / 2004 for enhancing his subsistence allowance and the said petition was also dismissed as per judgment & order dt. 7.4.06. The order of CAT, Mumbai in that respect was not challenged by the concerned workman in competent court of law and hence that judgment & order has also attained finality. Therefore the relief as regards the correctness of subsistence allowance sought by the concerned workman in the statement of claim also deserves to be rejected.

19. Here in the present reference, the concerned workman remained absent and he did not cross examine Shri Rajendra Kumar Sharma, the witness of the management. As such his evidence has gone un-challenged.

20. That apart, considering the admissions given by the concerned workman in his cross examination, nothing survives in the allegations of the workman especially when the concerned workman himself categorically admitted in his cross examination that every opportunity was granted to him in re-opened enquiry and the E.O. passed the report based on material on records. In view of this evidence, I hold that the departmental enquiry against the workman was held in accordance with the principles of natural justice and that the report & findings of the E.O. are based on evidence. Issue No. 1 & 2 are therefore answered accordingly as indicated against each of them in terms of above observations.

Issue No.3, 4 & 5.

21. Considering the nature of charge proved in the departmental enquiry, it is evident that the misconduct committed by the concerned workman are serious in nature. It is proved in the departmental enquiry that he grossly misbehaved with Shri V.V. Bobhate, DOM [COG], Mumbai Division by actively associating with Mr. G.C. Dutta and Ors who abused Mr. Bobhate in a very vulgar language and threatened to kill him. The charge is also proved against him that he made alterations in the attendance muster with a view to cover up his coming to the office late on 26th, 27th & 28th June 2000. The charges proved are serious in nature and considering the charges the punishment of compulsory retirement with 75% pensionery benefits was imposed. It appears that disciplinary authority has already been lenient while awarding the aforesaid punishment. It is in that circumstances even the concerned workman did not appear for cross examination of the management witness whose evidence has gone un-challenged in the context that the punishment of compulsory retirement was given by taking lenient view by the disciplinary authority and no interference is necessary. This sort of evidence has gone un-challenged. In view of that even there is no need to conduct Part – II trial of the reference. It certainly appears that the punishment is proportionate and that answers Issue No.3.

22. In view of my findings to the above issues, the second party workman is not entitled to any relief. Hence order.

ORDER

The reference is rejected with no order as to costs.

Date: 29.08.2018

M.V. DESHPANDE, Presiding Officer

नई दिल्ली, 28 सितम्बर, 2018

का.आ. 1461.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91-क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा मैसर्स राष्ट्रीय केमिकल्स एंड फर्टिलाइजर्स लिमिटेड (ट्रॉम्बे और थल इकाइयां) के कारखानों/स्थापनाओं के नियमित कर्मचारियों को इस अधिनियम के प्रवर्तन से छूट प्रदान करती है। यह छूट, अधिसूचना जारी होने की तारीख से एक वर्ष की अवधि के लिए लागू रहेगी।

2. उक्त छूट निम्नलिखित शर्तों के अधीन है; अर्थात्:—

(1) पूर्वोक्त स्थापना जिसमें कर्मचारी नियोजित हैं, एक रजिस्टर रखेगी, जिसमें छूट प्राप्त कर्मचारियों के नाम और पदनाम दिखाये जायेंगे;

(2) इस छूट के होते हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसुविधाएं प्राप्त करते रहेंगे जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व संदत्त अंशदानों के आधार पर हकदार हो जाते हैं;

(3) छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;

(4) उक्त कारखाने/स्थापना का नियोजक उस अवधि की बाबत जिसके दौरान उस कारखाने/स्थापना पर उक्त अधिनियम (जिसे इसमें इसके पश्चात उक्त अवधि कहा गया है) प्रवर्तमान था ऐसी विवरणियां, ऐसे प्रारूप में और ऐसी विशिष्टियों सहित देगा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी अपेक्षित होती थीं;

(5) निगम द्वारा उक्त कर्मचारी राज्य बीमा अधिनियम की धारा 45 की उप-धारा (1) के अधीन नियुक्त किया गया कोई निरीक्षक या निगम का इस निमित्त प्राधिकृत कोई अन्य पदधारी;

(i) धारा 44 की उप-धारा (1) के अधीन, उक्त अवधि की बाबत दी गई किसी विवरण की विशिष्टयों को सत्यापित करने के प्रयोजनार्थ; अथवा

(ii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथाअपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं; या

(iii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिये गए उन फायदों को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या

(iv) यह अभिनिश्चित करने के प्रयोजनार्थ कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा:-

(क) प्रधान या आसन्न नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त निरीक्षक या अन्य पदधारी आवश्यक समझता है ; अथवा

(ख) ऐसे प्रधान या आसन्न नियोजक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियां और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं; या

(ग) प्रधान या आसन्न नियोजक की, उसके अभिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या

(घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा, बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना;

(ङ) यथानिर्धारित अन्य शक्तियों का प्रयोग करना ।

(6) विनिवेश/निगमीकरण के मामले में, प्रदत्त छूट स्वत: रद्द हो जाएगी और तब नए प्रतिष्ठान को छूट हेतु समुचित सरकार की अनुमति लेनी होगी।

[सं. एस-38014/02/2013-एस.एस.-I]

संतोष कुमार सिंह, अवर सचिव

New Delhi, the 28th September, 2018

S. O. 1461.—In exercise of the power conferred by Section 88 read with Section 91-A of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby exempts the regular employees of factories/establishments of M/s. Rashtriya Chemicals & Fertilizers Ltd. (for Trombay and Thal Units) from the operation of the said Act. The exemption shall be effective for a period of one year from the date of issue of notification.

2. The above exemption is subject to the following conditions namely:—

(1) The aforesaid establishments wherein the employees are employed shall maintain a register showing the name and designations of the exempted employees';

(2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates;

(3) The contributions for the exempted period, if already paid, shall not be refundable;

(4) The employer of the said factory/establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returns in such forms and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;

(5) Any Social Security Officer appointed by the Corporation under Sub-Section (1) of Section 45 of the said ESI Act or other official of the Corporation authorized in this behalf by it, shall, for the purpose of :—

(i) Verifying the particulars contained in any returned submitted under sub-section (1) of section 44 for the said period; or

(ii) Ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or

(iii) Ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or

(iv) Ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory to be empowered to:

(a) require the principal or immediate employer to him such information as he may consider necessary for the purpose of this Act; or

(b) at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or

(c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee ; or

(d) make copies of or take extracts from any register, account book or other document maintained in such factory, establishment, office or other premises,

(e) exercise such other powers as may be prescribed.

(6) In case of disinvestment/corporatization, the exemption granted shall become automatically cancelled and then the new entity will have to approach the appropriate Government for exemption.

[No. S-38014/02/2013-S.S.-I)]

SANTOSH KUMAR SINGH, Under Secy.

नई दिल्ली, 28 सितम्बर, 2018

का.आ. 1462.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91-क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा मैसर्स हिल (इंडिया) लिमिटेड उद्योगमंडल, रसयानी, भटिंडा, इकाइयों और दिल्ली कार्यालय के कारखानों/स्थापनाओं के नियमित कर्मचारियों को इस अधिनियम के प्रवर्तन से छूट प्रदान करती है। यह छूट, अधिसूचना जारी होने की तारीख से एक वर्ष की अवधि के लिए लागू रहेगी।

2. उक्त छूट निम्नलिखित शर्तों के अधीन है; अर्थात्:—

(1) पूर्वोक्त स्थापना जिसमें कर्मचारी नियोजित हैं, एक रजिस्टर रखेगी, जिसमें छूट प्राप्त कर्मचारियों के नाम और पदनाम दिखाये जायेंगे;

(2) इस छूट के होते हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसुविधाएं प्राप्त करते रहेंगे जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व संदत्त अंशदानों के आधार पर हकदार हो जाते हैं;

(3) छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;

(4) उक्त कारखाने/स्थापना का नियोजक उस अवधि की बाबत जिसके दौरान उस कारखाने/स्थापना पर उक्त अधिनियम (जिसे इसमें इसके पश्चात उक्त अवधि कहा गया है) प्रवर्तमान था ऐसी विवरणियां, ऐसे प्रारूप में और ऐसी विशिष्टियों सहित देगा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी अपेक्षित होती थीं;

(5) निगम द्वारा उक्त कर्मचारी राज्य बीमा अधिनियम की धारा 45 की उप-धारा (1) के अधीन नियुक्त किया गया कोई निरीक्षक या निगम का इस निमित्त प्राधिकृत कोई अन्य पदधारी;

(i) धारा 44 की उप-धारा (1) के अधीन, उक्त अवधि की बाबत दी गई किसी विवरण की विशिष्टयों को सत्यापित करने के प्रयोजनार्थ; अथवा

(ii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथाअपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं; या

(iii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिये गए उन फायदों को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या

(iv) यह अभिनिश्चित करने के प्रयोजनार्थ कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा:—

(क) प्रधान या आसन्न नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त निरीक्षक या अन्य पदधारी आवश्यक समझता है ; अथवा

(ख) ऐसे प्रधान या आसन्न नियोजक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियां और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं; या

(ग) प्रधान या आसन्न नियोजक की, उसके अभिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या

(घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा, बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना;

(ङ) यथानिर्धारित अन्य शक्तियों का प्रयोग करना ।

(6) विनिवेश/निगमीकरण के मामले में, प्रदत्त छूट स्वत: रद्द हो जाएगी और तब नए प्रतिष्ठान को छूट हेतु समुचित सरकार की अनुमति लेनी होगी।

[सं. एस-38014/12/2013-एस.एस.-I]

संतोष कुमार सिंह, अवर सचिव

New Delhi, the 28th September, 2018

S.O. 1462.—In exercise of the power conferred by Section 88 read with Section 91-A of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby exempts the regular employees of factories/establishments of M/s. HIL (India) LTD. Udyogmandal, Rasayani, Bhatinda units and Delhi Office from the operation of the said Act. The exemption shall be effective for a period of one year from the date of issue of notification.

2. The above exemption is subject to the following conditions namely:—

(1) The aforesaid establishments wherein the employees are employed shall maintain a register showing the name and designations of the exempted employees';

(2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates;

(3) The contributions for the exempted period, if already paid, shall not be refundable;

(4) The employer of the said factory/establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returns in such forms and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;

(5) Any Social Security Officer appointed by the Corporation under Sub-Section (1) of Section 45 of the said ESI Act or other official of the Corporation authorized in this behalf by it, shall, for the purpose of :—

(i) Verifying the particulars contained in any returned submitted under sub-section (1) of section 44 for the said period; or

(ii) Ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or

(iii) Ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or

(iv) Ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory to be empowered to:

(a) require the principal or immediate employer to him such information as he may consider necessary for the purpose of this Act; or

(b) at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or

(c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee ; or

(d) make copies of or take extracts from any register, account book or other document maintained in such factory, establishment, office or other premises,

(e) exercise such other powers as may be prescribed.

(6) In case of disinvestment/corporatization, the exemption granted shall become automatically cancelled and then the new entity will have to approach the appropriate Government for exemption.

[No. S-38014/12/2013-S.S.-I]

SANTOSH KUMAR SINGH, Under Secy.

नई दिल्ली, 28 सितम्बर, 2018

का.आ.1463.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91-क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा राउरकेला स्टील प्लांट, राउरकेला के कारखानों/स्थापनाओं के नियमित कर्मचारियों को इस अधिनियम के प्रवर्तन से छूट प्रदान करती है। यह छूट, अधिसूचना जारी होने की तारीख से एक वर्ष की अवधि के लिए लागू रहेगी।

2. उक्त छूट निम्नलिखित शर्तों के अधीन है; अर्थात्:—

(1) पूर्वोक्त स्थापना जिसमें कर्मचारी नियोजित हैं, एक रजिस्टर रखेगी, जिसमें छूट प्राप्त कर्मचारियों के नाम और पदनाम दिखाये जायेंगे;

(2) इस छूट के होते हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसुविधाएं प्राप्त करते रहेंगे जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व संदत्त अंशदानों के आधार पर हकदार हो जाते हैं;

(3) छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;

(4) उक्त कारखाने/स्थापना का नियोजक उस अवधि की बाबत जिसके दौरान उस कारखाने/स्थापना पर उक्त अधिनियम (जिसे इसमें इसके पश्चात् उक्त अवधि कहा गया है) प्रवर्तमान था ऐसी विवरणियां, ऐसे प्रारूप में और ऐसी विशिष्टियों सहित देगा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी अपेक्षित होती थीं;

(5) निगम द्वारा उक्त कर्मचारी राज्य बीमा अधिनियम की धारा 45 की उप-धारा (1) के अधीन नियुक्त किया गया कोई निरीक्षक या निगम का इस निमित्त प्राधिकृत कोई अन्य पदधारी;

(i) धारा 44 की उप-धारा (1) के अधीन, उक्त अवधि की बाबत दी गई किसी विवरण की विशिष्टयों को सत्यापित करने के प्रयोजनार्थ; अथवा

(ii) यह अभिनिश्चत करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथाअपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं; या

(iii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिये गए उन फायदों को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या

(iv) यह अभिनिश्चित करने के प्रयोजनार्थ कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा:-

(क) प्रधान या आसन्न नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त निरीक्षक या अन्य पदधारी आवश्यक समझता है ; अथवा

(ख) ऐसे प्रधान या आसन्न नियोजक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियां और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं; या

(ग) प्रधान या आसन्न नियोजक की, उसके अभिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या

(घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा, बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना;

(ङ) यथानिर्धारित अन्य शक्तियों का प्रयोग करना ।

6. विनिवेश/निगमीकरण के मामले में, प्रदत्त छूट स्वत: रद्द हो जाएगी और तब नए प्रतिष्ठान को छूट हेतु समुचित सरकार की अनुमति लेनी होगी।

[सं. एस-38014/12/2014-एस.एस.-I]

संतोष कुमार सिंह, अवर सचिव

New Delhi, the 28th September, 2018

S.O. 1463.—In exercise of the power conferred by Section 88 read with Section 91-A of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby exempts the regular employees of factories/establishments of **Rourkela Steel Plant, Rourkela** from the operation of the said Act. The exemption shall be effective for a period of one year from the date of issue of notification.

2. The above exemption is subject to the following conditions namely:—

(1) The aforesaid establishments wherein the employees are employed shall maintain a register showing the name and designations of the exempted employees';

(2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates;

(3) The contributions for the exempted period, if already paid, shall not be refundable;

(4) The employer of the said factory/establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returns in such forms and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;

(5) Any Social Security Officer appointed by the Corporation under Sub-Section (1) of Section 45 of the said ESI Act or other official of the Corporation authorized in this behalf by it, shall, for the purpose of :-

(i) Verifying the particulars contained in any returned submitted under sub-section (1) of section 44 for the said period; or

(ii) Ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or

(iii) Ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or

(iv) Ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory to be empowered to:

(a) require the principal or immediate employer to him such information as he may consider necessary for the purpose of this Act; or

(b) at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or

(c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee ; or

(d) make copies of or take extracts from any register, account book or other document maintained in such factory, establishment, office or other premises,

(e) exercise such other powers as may be prescribed.

(6) In case of disinvestment/corporatization, the exemption granted shall become automatically cancelled and then the new entity will have to approach the appropriate Government for exemption.

[No. S-38014/12/2014-SS-I]

SANTOSH KUMAR SINGH, Under Secy.

नई दिल्ली, 28 सितम्बर, 2018

का. आ. 1464.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डिवीजनल इंजीनियर (एएचक्यू), गोमती नगर टेलीफोन एक्सचेंज, लखनऊ के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ सं. 25/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 25.09.2018 को प्राप्त हुआ था।

[सं. एल—40012/169/2002—आई आर (डीयू)]

अनु जैन, उप निदेशक

New Delhi, the 28th September, 2018

S.O. 1464.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. Case No. 25/2003) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the employers in relation to the Divisional Engineer (AHQ), Gomti Nagar Telephone Exchange, Lucknow and their workmen, which was recived by the Central Government on 25.09.2018.

[No. L-40012/169/2002 - IR(DU)]

ANU JAIN, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT : RAKESH KUMAR, Presiding Officer

I.D. No. 25/2003

Ref.No. L-40012/169/2002-IR(DU) dated 05.02.2003

BETWEEN

Sri Manjeet Singh S/o Sardar Mohan Singh
R/o LD 227 Sector F,
LDA Colony, Kanpur Road Lucknow

AND

1. The Divisional Engineer (AHQ), Central,
C/o Director (OFC), CE,
Gomti Nagar Telephone Exchange, 2nd Floor
Lucknow

AWARD

1. By order No. L-40012/57/2009-IR(CM-II) dated 05.02.2003 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between the Sri Manjit Singh S/o Sri Mohan Singh, LDA Colony, Kanpur Road, Lucknow and the Divisional Engineer (AHQ),Central, Gomti Nagar Telephone Exchange, 2nd Floor, Lucknow for adjudication.

2. The reference under adjudication is:

"WHETHER THE ACTION OF THE BHARAT SANCHAR NIGAM LTD. IN ORALLY TERMINATING THE SERVICES OF SH. MANJEET SINGH S/O SARDAR MOHAN SINGH W.E.F. 01.09.2001 IS LEGAL AND JUSTIFIED?" IF NOT TO WHAT RELIEF THE WORKMAN IS ENTITLED ?"

3. As per claim statement W-12, the petitioner has stated in brief that he has worked as Driver on the permanent post under the subordination of opposite party since 10.12.1998 to August 2001, he was asked to drive Matador no. UP 32T 9782 and sometimes six wheel Truck UP 32 T 3567. The workman has further asserted that during his employment no charge sheet was issued, his carrier has been blotless, even then Sri H.L. Maurya, JTO (Store) Lucknow by an oral order removed him from the service without assigning any reason, next day and on subsequent dates he went to the office to perform his duties but his request was not accepted and he was not reinstated. No prior notice was issued, neither any salary in lieu of notice or retrenchment compensation was paid. Moreover another workman was employed in his place.

4. The petitioner has further alleged that from 10.12.1998 to Jan.2000 he was paid @ Rs.96/ per day, and was required to sign on the receipt, similarly from Feb.2000 to May 2000 he was paid @ Rs.600/- per month, from June 2000 to August 2001 @ Rs.800/- per month, and when he raised objection, he was asked to accept whatever is being paid and the remaining salary will be paid @ Rs.96/- per day but when the petitioner raised demand again and again his services were terminated on 01.09.2001 and the remaining salary of Rs.41,088/- was not paid till date. The workman had asserted that he moved under Section 33C(2) before the U.P. Labour Court on 09.05.2002, case has been registered as Misc. 70/2002 and is still pending. Conciliation proceeding before the RLC have failed, the matter has been referred to Ministry, Ministry sent the matter to this Tribunal.

5. The petitioner has submitted details of the log book and duty performed by him w.e.f. 10.12.1998 to 31.08.2001, having worked for more than 240 days. Details have been given in several sub paras of Para 9 of the claim statement.

6. The workman has asserted that he had worked for more than 240 days in the period in question and the opposite party has intentionally not followed the I.D. Act., Provisions, unfair labour practice has been adopted and his legal right has been infringed. With the aforesaid pleadings request has been made by the petitioner to declare the impugned order as illegal and to reinstate him with continuity in service.

7. The management has filed written statement M-18 wherein allegations leveled in the claim statement have been denied. Opposite party has asserted that the said OFC Division is not permanent establishment of the BSNL, it was created for the completion of certain projects, applicant was neither appointed nor engaged in on temporary or permanent status, no appointment letter was ever issued by the competent authority in favour of the workman. Telecom Policy 1999 and consequential developments have been mentioned in the written statement. The opposite party has asserted that there is no sanctioned post of Driver in OFC Division and the applicant was never appointed, nor engaged by any competent authority either on regular or temporary basis. Misleading and misconceived facts have been given by the workman in the claim statement.

8. The opposite party has stressed that Sri H.L. Maurya, JTO was neither appointing authority, nor he was competent to terminate the regular employee, he could not accord any temporary or permanent sanction to keep the casual labour. Pendency of case Under Section 33C(2) of I.D. Act has been admitted by the opposite party. The management has submitted that if the applicant was appointed or engaged by some contractor then any competent authority does not have any liability to regularize his service particularly when there was no regular sanction post of the Driver in the project. Hon'ble Supreme Court and Hon'ble High Court judgments have been referred without any specific citation by the opposite party. The management has requested to dismiss the petition with cost in favour of the management.

9. With strong denial of the main facts raised by the opposite party in its written statement, rejoinder W-18 has been filed by the workman, reiterating the pleas taken the claim statement.

10. The management has further filed additional written statement M-21 and has mentioned therein citation of 2003 (1) LBESR, 415, Hon'ble Supreme Court submitting thereby that the proof of working days is on employee in the event of any denial of said factum. The management has further mentioned that UP 32T 9782 has been idle since long and no other vehicle was ever engaged/provided against the condemned vehicle UP 32T 9782. The workman further rebutted additional written statement with its supplementary W-23. The application C-25 for summoning the documents was moved by the workman. This application was disposed by the then Hon'ble Presiding Officer vide order dated 25.05.2005.

11. The workman submitted his evidence through affidavit. He was thoroughly cross examined on behalf of the management. The workman further adduced his witnesses, Sri Sarvajeet Upadhya, Sri Bhubneshwar Tewari, Sardar Saran Jit Singh in evidence.

12. The management filed affidavit of Sri H.L. Rai, and Sri Tribhuan Dutt in its evidence. Sri Tribhuan Datt was cross examined on behalf of the workman. Subsequently on the application of management, its witness Sri H.L. Rai was permitted in the court for his cross-examination on behalf of the workman. On 6.9.1013 further cross-examination of Sri H.L. Rai was deferred but could not be concluded.

13. Arguments of both the parties have been heard at length, Record available before the court has been scanned thoroughly.

14. Several adjournments were earlier sought by opposite party for filing original documents. On 24.09.2015 Learned AR for the opposite party submitted that original documents were not traceable, moreover none appeared on behalf of the management to verify the documents filed by the workman. In such circumstances the case was fixed for argument. Again on certain dates, none appeared but later on workman and his Learned AR made their appearance on every day before this court but the management official or its learned AR failed to appear before the court.

15. It has been submitted on behalf of the workman that he had joined on 10.12.1998 to work as Driver and had continuously performed his duties till 31.08.2001, and had worked for more than 240 days therefore legal requirement has been fulfilled even then the management has violated the statutory provisions of the I.D. Act., his services were illegally terminated. Details regarding bill number, payment of cheque etc. have furnished by the petitioner in para 9 (v) of the claim statement and further the details regarding endorsement on the gate pass with reference to the period mentioned have been elaborated in 9(vi) of the claim statement. Proof regarding work done by the petitioner has again been given in the paras 9(vii) and (viii) and other paras of the claim statement. The management has denied the allegations leveled in the claim statement and specifically asserted that the petitioner was never appointed or engaged by the competent authority either on regular or permanent basis, no appointment letter was issued. It has also been asserted by the management that there is no post of Driver in OFC. As per application C-25 dated 06.10.2004 request has been made by the workman to summon 293 documents mentioned therein, from the office of the management. The petitioner has himself supported pleas taken in the claim statement and rejoinder, he has been thoroughly cross-examined on behalf of the management as well as certain questions were put up by the then Hon'ble Judge/PO.

16. Mr. Sarvajeet Upadhaya was adduced in evidence by the petitioner. He has stated on oath that petitioner was Driver under the BSNL and quite often visited the Petrol Pump to take petrol and lubricants etc. on credit memos. Vehicle numbers have also been given by the witness. Sri S.B.Tewari and Sardar Saran Jeet Singh have also been adduced in the evidence by the petitioner.

17. In cross-examination witness Sri Sarvajeet Upadhaya asserted that he has worked in Avadh Petrol Pump Filling Station. Sri S.B. Tewari witness claiming himself as delivery man on the petrol punp has also been cross-examined on behalf of the management. Another witness Sardar Saran Jit Singh has also been cross examined by the management.

18. The management has filed affidavit of Sri H.L.Rai and Sri Tribhuan Dutt. Several documents confronted by the AR of the workman in the cross-examination, have been admitted in para 7 by the Sri T.Dutt, while on some other papers he has admitted his initials. Documents pertaining to gate pass etc. have been admitted. This witness in para 14 has asserted that he is unable to specify whether the alleged vehicle belongs to BSNL or not.

19. Sri H.L. Rai, DE has also been cross examined on behalf of the workman. Whether any requisition slips for purchasing Diesel or Petrol in the said vehicle have been issued by him or not, Sri H.L. Rai replied that he did not remember rather asserted that such slips might have been issued with the directions of the superior authorities. He has also been asked to disclose the name of the Driver of the vehicle but he

could not reply. Photo copies of the log book have neither been accepted nor denied by the management witness.

20. It may be quite pertinent to mention here that in the application M-83 dated 24.04.2015 request has been made by the learned AR for the management to grant time so as to verify the authenticity of the disputed documents with some competent authority. Sufficient time was granted but no such verification was made by any official of the management, neither any written request was submitted by the management. Another application was also moved by the management on 30.07.2015, which was allowed. More than 11 dates were given but the management could not verify the correctness of the documents referred by the workman.

21. Learned AR for the workman has argued that from Dec.1999 to Nov.2000 and from January 2000 to Dec. 2000 he had worked for 280 days and 270 days, respectively, as per log book. Duties performed by the workman have been corroborated by the witness adduced before this Court. No doubt, the management has also produced its witness before this court but their evidence is cryptic, vague and evasive. Although learned AR for the opposite party has taken sincere pains but the concerned officers of the management have miserably failed to discharge their duties. They could not muster courage to specifically deny the truthfulness or authenticity of the documents, relied upon by the petitioner. It is also an important fact to mention that none has appeared in the court to submit arguments on behalf of the management, although affidavits in evidence have been filed earlier and witness have been cross-examined also.

22. With regard to the matter in issue, in the present case, principle propounded by Hon'ble Supreme Court in the following Rulings are quite pertinent.

    1. (2002), 3 SCC, R.F.O. vs S.T. Hadimani Page 25.
    2. (2005), 8 SCC, Surendra Nagar District Panchyat Vs Jetha Bhai Pitambarbhai Page 450.
    3. (2006) 1, SCC, R.M.Yellati Vs Executive Engineer, Page 106.
    4. (2010) 1 SCC (L&S) Jagbir Singh Vs Haryana State Agriculture Board, page 545.

23. After having heard learned AR for the workman, scrutiny of the evidence adduced by both the parties in the light of the documents submitted before this Court, it is inferred that the alleged oral termination order of the workman Sri Manjit Singh w.e.f. 01.09.2001 can not be adjudicated as legal and justified. The petitioner workman is entitled for reinstatement w.e.f. 01.09.2001 alongwith 50% of the back wages. The management is directed to ensure payment of the dues to the petitioner within 10 weeks from the date of publication of award failing which interest @ 6% per annum shall also be paid to the petitioner by the management.

24. Award as above.

LUCKNOW

16.05.2017

RAKESH KUMAR, Presiding Officer

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